

## 7.1 Scope of Chapter

In criminal cases, parties may challenge jurors for cause during jury selection (for example, when a juror expresses an inability to be fair and impartial) or may use a certain number of peremptory challenges to remove jurors without cause. Peremptory challenges, or strikes, influenced by race violate the constitutional rights of both defendants and improperly struck jurors, and impair the reputation and democratic function of the justice system as a whole. *See infra* § 7.2A, Consequences of Discrimination in Jury Selection.

This chapter reviews the federal and state constitutional limits on the use of peremptory challenges. Most significantly, in the landmark U.S. Supreme Court decision *Batson v. Kentucky*, 476 U.S. 79 (1986), the U.S. Supreme Court established a three-step approach for assessing whether a party used a peremptory challenge for a discriminatory reason. Under this approach, an attorney may establish a violation by showing that the prosecutor failed to offer a sufficient race-neutral reason for exercising a peremptory challenge. Statistical evidence is not required to establish a violation; however, such data may be used to support an alleged violation. This chapter therefore reviews studies that have been conducted in North Carolina (and can be replicated) about disparities in the use of peremptory challenges. The chapter describes the procedures for raising a *Batson* claim, including raising the issue properly during jury selection, conducting a hearing on the issue, remedies, and preserving the record for appeal.