

E N G R O S S E D

H. B. 3193

(BY DELEGATE FRAZIER)

[Introduced February 18, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §52-1-8 of the Code of West Virginia,
1931, as amended, permitting persons who have been convicted
of felonies to qualify for jury service.

Be it enacted by the Legislature of West Virginia:

That §52-1-8 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 1. PETIT JURIES.

§52-1-8. Disqualification from jury service.

- 1 (a) The court, upon request of a prospective juror or on
- 2 its own initiative, shall determine on the basis of information
- 3 provided on the juror qualification form or interview with the

4 prospective juror or other competent evidence whether the
5 prospective juror is disqualified for jury service. The clerk
6 shall enter this determination in the space provided on the
7 juror qualification form and on the alphabetical lists of names
8 drawn from the jury wheel or jury box.

9 (b) A prospective juror is disqualified to serve on a jury
10 if the prospective juror:

11 (1) Is not a citizen of the United States, at least eighteen
12 years old and a resident of the county;

13 (2) Is unable to read, speak and understand the English
14 language. For the purposes of this section, the requirement
15 of speaking and understanding the English language is met
16 by the ability to communicate in American sign language or
17 signed English;

18 (3) Is incapable, by reason of substantial physical or
19 mental disability, of rendering satisfactory jury service; but
20 a person claiming this disqualification may be required to
21 submit a physician's certificate as to the disability and the
22 certifying physician is subject to inquiry by the court at its
23 discretion;

24 (4) Has, within the preceding two years, been summoned
25 to serve as a petit juror, grand juror or magistrate court juror,
26 and has actually attended sessions of the magistrate or circuit

27 court and been reimbursed for his or her expenses as a juror
28 pursuant to the provisions of section twenty-one of this
29 article, section thirteen, article two of this chapter, or
30 pursuant to an applicable rule or regulation of the Supreme
31 Court of Appeals promulgated pursuant to the provisions of
32 section eight, article five, chapter fifty of this code; or

33 ~~(5) Has lost the right to vote because of a criminal~~
34 ~~conviction, or~~

35 ~~(6)~~ (5) Has been convicted of perjury or false swearing.

36 (c) A prospective juror seventy years of age or older is
37 not disqualified from serving, but shall be excused from
38 service by the court upon the juror's request.

39 (d) A prospective grand juror is disqualified to serve on
40 a grand jury if the prospective grand juror is an office-holder
41 under the laws of the United States or of this state except that
42 the term "officeholder" does not include notaries public.

43 (e) A person who is physically disabled and can render
44 competent service with reasonable accommodation shall not
45 be ineligible to act as juror or be dismissed from a jury panel
46 on the basis of disability alone: *Provided*, That the circuit
47 judge shall, upon motion by either party or upon his or her
48 own motion, disqualify a disabled juror if the circuit judge
49 finds that the nature of potential evidence in the case

50 including, but not limited to, the type or volume of exhibits
51 or the disabled juror's ability to evaluate a witness or
52 witnesses, unduly inhibits the disabled juror's ability to
53 evaluate the potential evidence. For purposes of this section:

54 (1) Reasonable accommodation includes, but is not
55 limited to, certified interpreters for the hearing impaired,
56 spokespersons for the speech impaired and readers for the
57 visually impaired.

58 (2) The court shall administer an oath or affirmation to
59 any person present to facilitate communication for a disabled
60 juror. The substance of such oath or affirmation shall be that
61 any person present as an accommodation to a disabled juror
62 will not deliberate on his or her own behalf, although present
63 throughout the proceedings, but act only to accurately
64 communicate for and to the disabled juror.

65 (f) Nothing in this article shall be construed so as to limit
66 in any way a party's right to preemptory strikes in civil or
67 criminal actions.

NOTE: The purpose of this bill is to permit persons who have been convicted of felonies to qualify for jury service.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.