

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 96

(By Senators Sypolt and Williams)

[Originating in the Committee on the Judiciary;
reported January 17, 2012.]

A BILL to amend and reenact §52-1-8 of the Code of West Virginia, 1931, as amended, relating to redefining the basis for disqualification of prospective jurors to include those who have been convicted of any crime punishable by imprisonment in excess of one year, perjury or false swearing.

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

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

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

16 (2) Is unable to read, speak and understand the English
17 language. For the purposes of this section, the requirement
18 of speaking and understanding the English language is met
19 by the ability to communicate in American Sign Language or
20 signed English;

21 (3) Is incapable, by reason of substantial physical or
22 mental disability, of rendering satisfactory jury service. ~~but~~
23 A person claiming this disqualification may be required to
24 submit a physician's certificate as to the disability and the

25 certifying physician is subject to inquiry by the court at its
26 discretion;

27 (4) Has, within the preceding two years, been summoned
28 to serve as a petit juror, grand juror or magistrate court juror
29 and has ~~actually~~ attended sessions of the magistrate or
30 circuit court and ~~been~~ reimbursed for his or her expenses as
31 a juror pursuant to the provisions of section twenty-one of
32 this article, section thirteen, article two of this chapter, or
33 pursuant to an applicable rule or regulation of the Supreme
34 Court of Appeals promulgated pursuant to the provisions of
35 section eight, article five, chapter fifty of this code;

36 (5) Has lost the right to vote because of a criminal
37 conviction; or

38 (6) Has been convicted of perjury, false swearing or ~~other~~
39 ~~infamous offense~~ any crime punishable by imprisonment in
40 excess of one year under the applicable law of this state,
41 another state or the United States.

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

45 (d) A prospective grand juror is disqualified to serve on
46 a grand jury if ~~the prospective grand juror~~ he or she is an

47 officeholder under the laws of the United States or of this
48 state except that the term officeholder does not include
49 notaries public.

50 (e) A person who is physically disabled and can render
51 competent service with reasonable accommodation ~~shall not~~
52 ~~be~~ is not ineligible to act as juror or be dismissed from a jury
53 panel on the basis of disability alone. ~~Provided, That~~ The
54 circuit judge shall, upon motion by either party or upon his
55 or her own motion, disqualify a disabled juror if the circuit
56 judge finds that the nature of potential evidence in the case
57 including, but not limited to, the type or volume of exhibits
58 or the disabled juror's ability to evaluate a witness or
59 witnesses, unduly inhibits the disabled juror's ability to
60 evaluate the potential evidence. For purposes of this section:

61 (1) Reasonable accommodation includes, but is not
62 limited to, certified interpreters for the hearing impaired,
63 spokespersons for the speech impaired and readers for the
64 visually impaired.

65 (2) The court shall administer an oath or affirmation to
66 any person present to facilitate communication for a disabled
67 juror. The substance of ~~such~~ the oath or affirmation shall be
68 that any person present as an accommodation to a disabled

69 juror will not deliberate on his or her own behalf, although
70 present throughout the proceedings, but act only to accu-
71 rately communicate for and to the disabled juror.

72 (f) Nothing in this article ~~shall be construed so as to limit~~
73 ~~in any way~~ limits a party's right to preemptory strikes in
74 civil or criminal actions.

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