1 Senate Bill No. 87 2 (By Senators Sypolt and Williams) 3 [Introduced February 13, 2013; referred to the Committee on the 4 5 Judiciary.] 6 7 8 9 10 A BILL to amend and reenact §62-3-3 of the Code of West Virginia, 1931, as amended, relating to changing the number of strikes 11 12 in jury selection in felony cases to provide four strikes each 13 to the accused and the prosecution. 14 Be it enacted by the Legislature of West Virginia: That §62-3-3 of the Code of West Virginia, 1931, as amended, 15 16 be amended and reenacted to read as follows: 17 ARTICLE 3. TRIAL OF CRIMINAL CASES. 18 **§62-3-3**. Selection of jury in felony cases; striking jurors; 19 alternate jurors. 20 In a case of felony, twenty jurors shall be drawn from those 21 in attendance for the trial of the accused. If a sufficient number 22 of jurors for such panel cannot be procured in this way, the court

1 shall order others to be forthwith summoned and selected until a 2 panel of twenty jurors, free from exception, be completed, from 3 which is complete. From this panel the accused may strike off six 4 four jurors and the prosecuting attorney may strike off two four The prosecuting attorney shall first strike off two 6 jurors, and then the accused six first strikes off one juror then 7 the accused strikes off one juror. The parties continue in this 8 manner until all strikes have been used. If the accused failed 9 fails to strike from such panel the number of jurors this section 10 allows, him to strike, the number not stricken off by him or her 11 shall be stricken off by the prosecuting attorney so as to reduce 12 the panel to twelve. who shall compose the jury for the trial of This panel composes the regular jury for trial of the 14 case. 15 Whenever in the opinion of the court is of the opinion that 16 the trial is likely to be a may be a protracted one, the court it 17 may direct that not more than up to four jurors, in addition to the 18 regular jury, be called and impanelled to sit impaneled as 19 alternate jurors. Alternate jurors, in the order in which they are 20 called, shall replace jurors who, prior to the time the jury 21 retires to consider its verdict, become unable or disqualified to 22 perform their duties. Alternate jurors shall be drawn in the same 23 manner, shall have the same qualifications, shall be subject to the

1 same examination and challenges, shall take the same oath and shall
2 have the same functions, powers, facilities and privileges as the
3 regular jurors. An alternate juror who does not replace a regular
4 juror shall be discharged after the jury retires to consider its
5 verdict. Each side is entitled to one peremptory challenge in
6 addition to those otherwise allowed by law if one or two alternate
7 jurors are to be impanelled impaneled and two peremptory challenges
8 if three or four alternate jurors are to be impanelled impaneled.
9 The additional peremptory challenges may be used against an
10 alternate juror only and the other peremptory challenges allowed by
11 this section may not be used against an alternate juror.

NOTE: The purpose of this bill is to allow both the accused and prosecuting attorney to have four strikes from a panel of potential jurors.

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