

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 405

(By Senators Cookman, Miller and Plymale)

[Originating in the Committee on the Judiciary;
reported January 29, 2014.]

A BILL to amend and reenact §52-1-5a and §52-1-9 of the Code of West Virginia, 1931, as amended, all relating to availability of jury qualification forms; limiting availability after conclusion of trial; and removing a conflict with another section of the code.

Be it enacted by the Legislature of West Virginia:

That §52-1-5a and §52-1-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. PETIT JURIES.

§52-1-5a. Jury qualification form; contents; procedure for use; penalties.

1 (a) Not less than twenty days before the date for which
2 persons are to report for jury duty, the clerk may, if directed
3 by the court, serve by first-class mail, upon each person listed
4 on the master list, a juror qualification form accompanied by
5 instructions necessary for its completion: *Provided*, That the
6 clerk may, if directed by the court, mail the juror
7 qualification form to only those prospective jurors drawn for
8 jury service under the provisions of section seven of this
9 article. Each prospective juror shall be directed to complete
10 the form and return it by mail to the clerk within ten days
11 after its receipt. The juror qualification form is subject to
12 approval by the circuit court as to matters of form and shall
13 elicit the following information concerning the prospective
14 juror:

- 15 (1) The juror's name, sex, race, age and marital status;
- 16 (2) The juror's level of educational attainment,
- 17 occupation and place of employment;

18 (3) If married, the name of the juror's spouse and the
19 occupation and place of employment of the spouse;

20 (4) The juror's residence address and the juror's mailing
21 address if different from the residence address;

22 (5) The number of children which the juror has and their
23 ages;

24 (6) Whether the juror is a citizen of the United States and
25 a resident of the county;

26 (7) Whether the juror is able to read, speak and
27 understand the English language;

28 (8) Whether the juror has any physical or mental
29 disability substantially impairing the capacity to render
30 satisfactory jury service: *Provided*, That a juror with a
31 physical disability, who can with reasonable accommodation
32 render competent service, is eligible for service;

33 (9) Whether the juror has, within the preceding two years,
34 been summoned to serve as a petit juror, grand juror or
35 magistrate court juror, and has actually attended sessions of

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36 the magistrate or circuit court and been reimbursed for his or
37 her expenses as a juror;

38 (10) Whether the juror has lost the right to vote because
39 of a criminal conviction; and

40 (11) Whether the juror has been convicted of perjury,
41 false swearing or any crime punishable by imprisonment in
42 excess of one year under the applicable law of this state,
43 another state or the United States.

44 The juror qualification form may also request information
45 concerning the prospective juror's religious preferences and
46 organizational affiliations, except that the form and the
47 accompanying instructions shall clearly inform the juror that
48 this information need not be provided if the juror declines to
49 answer such inquiries.

50 (b) The juror qualification form shall contain the
51 prospective juror's declaration that the responses are true to
52 the best of the prospective juror's knowledge and an
53 acknowledgment that a willful misrepresentation of a
54 material fact may be punished by a fine of not more than

55 \$500 or imprisonment for not more than thirty days, or both
56 fine and imprisonment. Notarization of the juror qualification
57 form shall not be required. If the prospective juror is unable
58 to fill out the form, another person may assist the prospective
59 juror in the preparation of the form and indicate that such
60 person has done so and the reason therefor. If an omission,
61 ambiguity or error appear in a returned form, the clerk shall
62 again send the form with instructions to the prospective juror
63 to make the necessary addition, clarification or correction and
64 to return the form to the clerk within ten days after its second
65 receipt.

66 (c) Any prospective juror who fails to return a completed
67 juror qualification form as instructed shall be directed by the
68 clerk to appear forthwith before the clerk to fill out the juror
69 qualification form. At the time of the prospective juror's
70 appearance for jury service, or at the time of any interview
71 before the court or clerk, any prospective juror may be
72 required to fill out another juror qualification form in the
73 presence of the court or clerk. At that time the prospective

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74 juror may be questioned with regard to the responses to
75 questions contained on the form and the grounds for the
76 prospective juror's excuse or disqualification. Any
77 information thus acquired by the court or clerk shall be noted
78 on the juror qualification form.

79 (d) Any person who willfully misrepresents a material
80 fact on a juror qualification form or during any interview
81 described in subsection (c) of this section, for the purpose of
82 avoiding or securing service as a juror, is guilty of a
83 misdemeanor and, upon conviction thereof, shall be fined not
84 more than \$500 or imprisoned not more than thirty days, or
85 both fined and imprisoned.

86 (e) Upon the clerk's receipt of the juror qualification
87 questionnaires of persons selected as prospective petit jurors,
88 he or she shall make the questionnaires of the persons so
89 selected available, upon request, to counsel of record in the
90 trial or trials for which the persons have been selected as
91 prospective jurors: Provided, That upon the conclusion of
92 the trial the juror qualification forms for persons serving on

93 a particular trial jury may only be released with the written
94 permission of the judge who presided over the trial or his or
95 her successor.

**§52-1-9. Assignment of jurors to jury panels; drawing of
additional jurors upon shortage of qualified jurors.**

1 (a) The jurors drawn for jury service shall be assigned at
2 random by the clerk to each jury panel in a manner
3 prescribed by the court.

4 (b) If there is an unanticipated shortage of available petit
5 jurors drawn from the jury wheel or jury box the court may
6 require the sheriff to summon a sufficient number of petit
7 jurors selected at random by the clerk from the jury wheel or
8 jury box in a manner prescribed by the circuit court.

9 ~~(c) The names of the qualified jurors drawn from the jury~~
10 ~~wheel or jury box and the contents of jury qualification forms~~
11 ~~completed by those jurors shall be made available to the~~
12 ~~public.~~