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**Senate Bill No. 345**

(By Senators Sypolt, Blair, Ferns, D. Hall, M. Hall, Laird, Leonhardt, Mullins, Nohe, Trump and Williams)

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[Introduced January 28, 2015; referred to the Committee on the Judiciary.]

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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 in jury selection in felony cases to provide four strikes each to the accused and the prosecution; and setting forth the order the strikes are to be taken.

*Be it enacted by the Legislature of West Virginia:*

That §62-3-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. TRIAL OF CRIMINAL CASES.**

**§62-3-3. Selection of jury in felony cases; striking jurors; alternate jurors.**

In a case of felony, twenty jurors shall be drawn from those in attendance for the trial of the accused. If a sufficient number of jurors ~~for such panel~~ cannot be procured in this way, the court shall order others to be forthwith summoned and selected until a panel of twenty jurors, free from exception, ~~be completed, from which~~ is complete. From this panel the accused may strike off ~~six~~ four jurors and the prosecuting attorney may strike off ~~two~~ four jurors. The prosecuting attorney ~~shall first strike off two jurors, and then the accused six~~ first strikes off one juror then the accused

1 strikes off one juror. The parties continue in this manner until all strikes have been used. If the  
 2 accused ~~failed~~ fails to strike ~~from such panel~~ the number of jurors this section allows, ~~him to strike,~~  
 3 the number not stricken off by him or her shall be stricken off by the prosecuting attorney ~~so as to~~  
 4 reduce the panel to twelve. ~~who shall compose the jury for the trial of the case.~~ This panel composes  
 5 the regular jury for trial of the case.

6 Whenever ~~in the opinion of the court~~ is of the opinion that the trial is likely to be a may be  
 7 a protracted one, ~~the court~~ it may direct ~~that not more than~~ up to four jurors, in addition to the regular  
 8 jury, be called and ~~impaneled to sit~~ impaneled as alternate jurors. Alternate jurors, in the order in  
 9 which they are called, shall replace jurors who, prior to the time the jury retires to consider its  
 10 verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the  
 11 same manner, ~~shall~~ have the same qualifications, ~~shall~~ be subject to the same examination and  
 12 challenges, ~~shall~~ take the same oath and ~~shall~~ have the same functions, powers, facilities and  
 13 privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be  
 14 discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory  
 15 challenge in addition to those otherwise allowed by law if one or two alternate jurors are ~~to be~~  
 16 ~~impaneled~~ impaneled and two peremptory challenges if three or four alternate jurors are ~~to be~~  
 17 ~~impaneled~~ impaneled. The additional peremptory challenges may be used against an alternate juror  
 18 only and the other peremptory challenges allowed by this section may not be used against an  
 19 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. The bill sets forth the order the strikes are to be taken.

The bill changes the current code that permits the prosecution to have two strikes and the accused to have six strikes.

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