

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4711

BY DELEGATES HILL, KESSINGER, ARVON, UPSON AND

BLAIR

[Introduced February 23, 2016; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §52-1-8 of the Code of West Virginia, 1931, as amended, relating
2 to allowing a mother breastfeeding a child to be excused from jury duty.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. PETIT JURIES.

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

1 (a) The court, shall determine whether any prospective juror is disqualified for jury service
2 on the basis of information provided on the juror qualification form or interview with the prospective
3 juror or other competent evidence. The clerk shall enter this determination in the space provided
4 on the juror qualification form and on the alphabetical lists of names drawn from the jury wheel or
5 jury box.

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

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

9 (2) Is unable to read, speak and understand the English language. For the purposes of
10 this section, the requirement of speaking and understanding the English language is met by the
11 ability to communicate in American Sign Language or Signed English;

12 (3) Is incapable, by reason of substantial physical or mental disability, of rendering
13 satisfactory jury service. A person claiming this disqualification may be required to submit a
14 physician’s certificate as to the disability and the certifying physician is subject to inquiry by the
15 court at its discretion;

16 (4) Has, within the preceding two years, been summoned to serve as a petit juror, grand
17 juror or magistrate court juror and has attended sessions of the magistrate or circuit court and
18 been reimbursed for his or her expenses as a juror pursuant to the provisions of section twenty-
19 one of this article, section thirteen, article two of this chapter, or pursuant to an applicable rule or

20 regulation of the Supreme Court of Appeals promulgated pursuant to the provisions of section
21 eight, article five, chapter fifty of this code;

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

23 (6) Has been convicted of perjury, false swearing or any crime punishable by
24 imprisonment in excess of one year under the applicable law of this state, another state or the
25 United States.

26 (c) A prospective juror who is seventy years of age or older, or who is a mother
27 breastfeeding a child, is not disqualified from serving but shall be excused from service by the
28 court upon his or her request.

29 (d) A prospective grand juror is disqualified to serve on a grand jury if he or she is an
30 officeholder under the laws of the United States or of this state except that the term "officeholder"
31 does not include notaries public.

32 (e) A person who is physically disabled and can render competent service with reasonable
33 accommodation is not ineligible to act as juror and may not be dismissed from a jury panel on the
34 basis of disability alone. The circuit judge shall, upon motion by either party or upon his or her
35 own motion, disqualify a disabled juror if the circuit judge finds that the nature of potential evidence
36 in the case including, but not limited to, the type or volume of exhibits or the disabled juror's ability
37 to evaluate a witness or witnesses, unduly inhibits the disabled juror's ability to evaluate the
38 potential evidence. For purposes of this section:

39 (1) Reasonable accommodation includes, but is not limited to, certified interpreters for the
40 hearing impaired, spokespersons for the speech impaired, real-time court reporting and readers
41 for the visually impaired.

42 (2) The court shall administer an oath or affirmation to any person present to facilitate
43 communication for a disabled juror. The substance of the oath or affirmation shall be that any
44 person present as an accommodation to a disabled juror will not deliberate on his or her own
45 behalf, although present throughout the proceedings, but act only to accurately communicate for

46 and to the disabled juror.

47 (f) Nothing in this article limits a party's right to preemptory strikes in civil or criminal

48 actions.

NOTE: The purpose of this bill is to allow a mother breastfeeding a child to be excused from jury duty.

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