

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Introduced**

## **Senate Bill 692**

BY SENATOR TRUMP

[Introduced February 4, 2020; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §62-3-8 of the Code of West Virginia, 1931, as amended, relating  
 2 to clarifying that persons charged with a felony offense or offenses are entitled to a  
 3 separate trial as to their guilt or innocence upon moving therefor; and further clarifying that  
 4 the statutory right to a separate trial preempts any provisions of law or judicial rule to the  
 5 contrary.

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

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

**§62-3-8. Jury for defendants indicted and tried jointly; jury for separate trials of persons jointly indicted.**

1 (a) Persons indicted and tried jointly, for a felony, shall be allowed to strike from the panel  
 2 of jurors not more than six thereof, and only such as they all agree upon shall be stricken  
 3 therefrom; and if they cannot agree upon the names to be so stricken off, the prosecuting attorney  
 4 shall strike therefrom a sufficient number of names to reduce the panel to 12. If persons jointly  
 5 indicted elect to be, or are, tried separately, the panel in the case of each shall be made up as  
 6 provided in the third section of this article.

7 (b) Notwithstanding any provision of law or judicial rule to the contrary, a person charged  
 8 with a felony offense or offenses is entitled, upon motion, to a separate trial at which his or her  
 9 guilt or innocence of the charge or charges is to be determined.

NOTE: The purpose of this bill is to clarify that persons indicted or charged jointly for a felony offense or offenses is entitled, upon motion, to have a separate trial to determine guilt or innocence of the offense or offenses.

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