

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 692

SENATOR TRUMP, *original sponsor*

[Originating in the Committee on the Judiciary;

reported on February 17, 2020]

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 clarifying that the
4 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~~ those they all agree upon shall be stricken
3 ~~therefrom~~ from the panel; and if they cannot agree upon the names to be ~~so~~ stricken ~~off~~, the
4 prosecuting attorney shall strike ~~therefrom~~ from the panel a sufficient number of names to reduce
5 the panel to 12. If persons jointly indicted elect to be, or are, tried separately, the panel in the case
6 of each shall be made up as provided in §62-3-3 of this code.

7 (b)The Legislature finds that basic concepts of fairness dictate that a person charged with
8 a felony or felonies has a right to a speedy trial at which the primary focus is upon his or her guilt
9 or innocence.

10 (c) Notwithstanding any provision of law or judicial rule to the contrary, if a person is jointly
11 indicted with one or more other persons, each defendant charged with a felony offense or offenses
12 is entitled, upon motion, to his or her own separate trial at which his or her guilt or innocence of
13 the charge or charges will be determined.