

1 **ENGROSSED**

2 **H. B. 3193**

3
4 (By Delegate Frazier)

5 [Introduced February 18, 2011; referred to the
6 Committee on the Judiciary.]
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10 A BILL to amend and reenact §52-1-8 of the Code of West Virginia,
11 1931, as amended, permitting persons who have been convicted
12 of felonies to qualify for jury service.

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

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

16 **ARTICLE 1. PETIT JURIES.**

17 **§52-1-8. Disqualification from jury service.**

18 (a) The court, upon request of a prospective juror or on its
19 own initiative, shall determine on the basis of information
20 provided on the juror qualification form or interview with the
21 prospective juror or other competent evidence whether the
22 prospective juror is disqualified for jury service. The clerk
23 shall enter this determination in the space provided on the juror
24 qualification form and on the alphabetical lists of names drawn
25 from the jury wheel or jury box.

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

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

3 (2) Is unable to read, speak and understand the English
4 language. For the purposes of this section, the requirement of
5 speaking and understanding the English language is met by the
6 ability to communicate in American sign language or signed English;

7 (3) Is incapable, by reason of substantial physical or mental
8 disability, of rendering satisfactory jury service; but a person
9 claiming this disqualification may be required to submit a
10 physician's certificate as to the disability and the certifying
11 physician is subject to inquiry by the court at its discretion;

12 (4) Has, within the preceding two years, been summoned to
13 serve as a petit juror, grand juror or magistrate court juror, and
14 has actually attended sessions of the magistrate or circuit court
15 and been reimbursed for his or her expenses as a juror pursuant to
16 the provisions of section twenty-one of this article, section
17 thirteen, article two of this chapter, or pursuant to an applicable
18 rule or regulation of the Supreme Court of Appeals promulgated
19 pursuant to the provisions of section eight, article five, chapter
20 fifty of this code; or

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

23 ~~(6)~~ (5) Has been convicted of perjury or false swearing.

24 (c) A prospective juror seventy years of age or older is not
25 disqualified from serving, but shall be excused from service by the
26 court upon the juror's request.

27 (d) A prospective grand juror is disqualified to serve on a

1 grand jury if the prospective grand juror is an office-holder under
2 the laws of the United States or of this state except that the term
3 "officeholder" does not include notaries public.

4 (e) A person who is physically disabled and can render
5 competent service with reasonable accommodation shall not be
6 ineligible to act as juror or be dismissed from a jury panel on the
7 basis of disability alone: *Provided*, That the circuit judge shall,
8 upon motion by either party or upon his or her own motion,
9 disqualify a disabled juror if the circuit judge finds that the
10 nature of potential evidence in the case including, but not limited
11 to, the type or volume of exhibits or the disabled juror's ability
12 to evaluate a witness or witnesses, unduly inhibits the disabled
13 juror's ability to evaluate the potential evidence. For purposes
14 of this section:

15 (1) Reasonable accommodation includes, but is not limited to,
16 certified interpreters for the hearing impaired, spokespersons for
17 the speech impaired and readers for the visually impaired.

18 (2) The court shall administer an oath or affirmation to any
19 person present to facilitate communication for a disabled juror.
20 The substance of such oath or affirmation shall be that any person
21 present as an accommodation to a disabled juror will not deliberate
22 on his or her own behalf, although present throughout the
23 proceedings, but act only to accurately communicate for and to the
24 disabled juror.

25 (f) Nothing in this article shall be construed so as to limit
26 in any way a party's right to preemptory strikes in civil or
27 criminal actions.

NOTE: The purpose of this bill is to permit persons who have been convicted of felonies to qualify for jury service.

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