Senate Bill No. 191 1 (By Senators Sypolt, Klempa, Hall, Williams, Boley, Tucker, Nohe 2 3 and Yost) 4 5 [Introduced January 18, 2011; referred to the Committee on the 6 Judiciary.] 7 8 9 10 A BILL to amend and reenact §62-3-3 of the Code of West Virginia, 11 1931, as amended, relating to changing the number of strikes in jury selection in felony cases to provide four strikes each 12 13 to the accused and the prosecution. 14 Be it enacted by the Legislature of West Virginia: 15 That §62-3-3 of the Code of West Virginia, 1931, as amended, 16 be amended and reenacted to read as follows: 17 ARTICLE 3. TRIAL OF CRIMINAL CASES. 18 §62-3-3. Selection of jury in felony cases; striking jurors; alternate jurors. 19 In a case of felony, twenty jurors shall be drawn from those 20 21 in attendance for the trial of the accused. If a sufficient number 22 of jurors for such panel cannot be procured in this way, the court 23 shall order others to be forthwith summoned and selected until a 24 panel of twenty jurors, free from exception, be completed. from

- 1 which From this panel the accused may strike off six four jurors
- 2 and the prosecuting attorney may strike off two four jurors. The
- 3 prosecuting attorney shall first strike off two jurors, and then
- 4 the accused six first strikes off one juror, then the accused
- 5 strikes off one juror. The parties continue in like manner until
- 6 all strikes have been used. If the accused failed fails to strike
- 7 from such panel the number of jurors this section allows, him to
- 8 strike, the number not stricken off by him or her shall be stricken
- 9 off by the prosecuting attorney so as to reduce the panel to
- 10 twelve. who shall compose the jury for the trial of the case.
- 11 This panel composes the regular jury for trial of the case.
- Whenever in the opinion of the court is of the opinion that
 the trial is likely to be a may be a protracted one, the court it
 may direct that not more than up to four jurors, in addition to the
 regular jury, be called and impanelled to sit impaneled as
 alternate jurors. Alternate jurors, in the order in which they are
 called, shall replace jurors who, prior to the time the jury
 retires to consider its verdict, become unable or disqualified to
 perform their duties. Alternate jurors shall be drawn in the same
 manner, shall have the same qualifications, shall be subject to the
 same examination and challenges, shall take the same oath and shall
 have the same functions, powers, facilities and privileges as the
 regular jurors. An alternate juror who does not replace a regular
 juror shall be discharged after the jury retires to consider its
 verdict. Each side is entitled to one peremptory challenge in

- 1 addition to those otherwise allowed by law if one or two alternate
- 2 jurors are to be impanelled impanelled and two peremptory challenges
- 3 if three or four alternate jurors are to be impanelled impaneled.
- 4 The additional peremptory challenges may be used against an
- 5 alternate juror only and the other peremptory challenges allowed by
- 6 this section may not be used against an 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.

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