

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 80**

4 (By Senators Foster, Stollings, Hall, Palumbo, Beach and Klempa)

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6 [Originating in the Committee on Health and Human Resources;
7 reported January 21, 2011.]
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11 A BILL to amend and reenact §52-1-8 of the Code of West Virginia,
12 1931, as amended, relating to excusing breast-feeding women
13 from jury duty upon request; and making reasonable
14 accommodations for a breast-feeding juror upon request.

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

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

18 **ARTICLE 1. PETIT JURIES.**

19 **§52-1-8. Disqualification from jury service.**

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

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

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

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

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

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

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

25 (6) Has been convicted of perjury, false swearing or other
26 infamous offense;

27 (c) A prospective juror seventy years of age or older is not
28 disqualified from serving, but shall be excused from service by the

1 court upon the juror's request.

2 (d) A breast feeding women is not disqualified from serving,
3 but shall be excused from service by the court upon the juror's
4 request. Upon request reasonable accommodations may be made for a
5 breast feeding women serving as a juror.

6 ~~(d)~~ (e) A prospective grand juror is disqualified to serve on
7 a grand jury if the prospective grand juror is an officeholder
8 under the laws of the United States or of this state except that
9 the term "officeholder" does not include notaries public.

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

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

24 (2) The court shall administer an oath or affirmation to any
25 person present to facilitate communication for a disabled juror.
26 The substance of such oath or affirmation shall be that any person
27 present as an accommodation to a disabled juror will not deliberate
28 on his or her own behalf, although present throughout the

1 proceedings, but act only to accurately communicate for and to the
2 disabled juror.

3 ~~(f)~~(g)Nothing in this article shall be construed so as to
4 limit in any way a party's right to preemptory strikes in civil or
5 criminal actions.

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