

Senate Bill No. 95

(By Senators Sypolt, Barnes, Klempa and Williams)

[Introduced January 14, 2011; referred to the Committee on the
Judiciary.]

10 A BILL to amend and reenact §52-1-8 of the Code of West Virginia,
11 1931, as amended, relating to redefining the basis for
12 disqualification of prospective jurors to include those who
13 have been convicted of any crime punishable by imprisonment in
14 excess of one year or any crime involving dishonesty or false
15 statement, regardless of the punishment.

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

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

19 **ARTICLE 1. PETIT JURIES.**

20 **§52-1-8. Disqualification from jury service.**

21 (a) The court, upon request of a prospective juror or on its
22 own initiative, shall determine on the basis of information
23 provided on the juror qualification form or interview with the
24 prospective juror or other competent evidence whether the

1 prospective juror is disqualified for jury service. The clerk
2 shall enter this determination in the space provided on the juror
3 qualification form and on the alphabetical lists of names drawn
4 from the jury wheel or jury box.

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

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

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

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

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

1 fifty of this code;

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

4 (6) Has been convicted of perjury, ~~false swearing or other~~
5 ~~infamous offense~~ any crime punishable by imprisonment in excess of
6 one year under the applicable law or any crime involving dishonesty
7 or false statement, regardless of the punishment.

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

11 (d) A prospective grand juror is disqualified to serve on a
12 grand jury if the prospective grand juror is an officeholder under
13 the laws of the United States or of this state except that the term
14 "officeholder" does not include notaries public.

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

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

4 (2) The court shall administer an oath or affirmation to any
5 person present to facilitate communication for a disabled juror.
6 The substance of ~~such~~ the oath or affirmation shall be that any
7 person present as an accommodation to a disabled juror will not
8 deliberate on his or her own behalf, although present throughout
9 the proceedings, but act only to accurately communicate for and to
10 the disabled juror.

11 (f) Nothing in this article ~~shall be construed so as to limit~~
12 limits in any way a party's right to preemptory strikes in civil or
13 criminal actions.

NOTE: The purpose of this bill is to replace the phrase "other infamous offense" with those who have been convicted of any crime punishable by imprisonment in excess of one year or any crime involving dishonesty or false statement, regardless of the punishment relating to those who may not serve as jurors.

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