

# H. B. 3193

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(BY DELEGATE FRAZIER)

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[Introduced February 18, 2011; referred to the  
Committee on the Judiciary.]

A BILL to amend and reenact §52-1-8 of the Code of West Virginia,  
1931, as amended, permitting persons who have been convicted  
of felonies to qualify for jury service.

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

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

## **ARTICLE 1. PETIT JURIES.**

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

- 1           (a) The court, upon request of a prospective juror or on
- 2           its own initiative, shall determine on the basis of information
- 3           provided on the juror qualification form or interview with the
- 4           prospective juror or other competent evidence whether the

5 prospective juror is disqualified for jury service. The clerk  
6 shall enter this determination in the space provided on the  
7 juror qualification form and on the alphabetical lists of names  
8 drawn from the jury wheel or jury box.

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

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

13 (2) Is unable to read, speak and understand the English  
14 language. For the purposes of this section, the requirement of  
15 speaking and understanding the English language is met by  
16 the ability to communicate in American sign language or  
17 signed English;

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

24 (4) Has, within the preceding two years, been summoned  
25 to serve as a petit juror, grand juror or magistrate court juror,  
26 and has actually attended sessions of the magistrate or circuit  
27 court and been reimbursed for his or her expenses as a juror

28 pursuant to the provisions of section twenty-one of this  
29 article, section thirteen, article two of this chapter, or  
30 pursuant to an applicable rule or regulation of the Supreme  
31 Court of Appeals promulgated pursuant to the provisions of  
32 section eight, article five, chapter fifty of this code; or

33 ~~(5) Has lost the right to vote because of a criminal~~  
34 ~~conviction, or~~

35 ~~(6)~~ (5) Has been convicted of perjury, false swearing or  
36 other infamous offense.

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

40 (d) A prospective grand juror is disqualified to serve on  
41 a grand jury if the prospective grand juror is an office-holder  
42 under the laws of the United States or of this state except that  
43 the term "officeholder" does not include notaries public.

44 (e) A person who is physically disabled and can render  
45 competent service with reasonable accommodation shall not  
46 be ineligible to act as juror or be dismissed from a jury panel  
47 on the basis of disability alone: *Provided*, That the circuit  
48 judge shall, upon motion by either party or upon his or her  
49 own motion, disqualify a disabled juror if the circuit judge  
50 finds that the nature of potential evidence in the case

51 including, but not limited to, the type or volume of exhibits  
52 or the disabled juror's ability to evaluate a witness or  
53 witnesses, unduly inhibits the disabled juror's ability to  
54 evaluate the potential evidence. For purposes of this section:

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

59 (2) The court shall administer an oath or affirmation to  
60 any person present to facilitate communication for a disabled  
61 juror. The substance of such oath or affirmation shall be that  
62 any person present as an accommodation to a disabled juror  
63 will not deliberate on his or her own behalf, although present  
64 throughout the proceedings, but act only to accurately  
65 communicate for and to the disabled juror.

66 (f) Nothing in this article shall be construed so as to limit  
67 in any way a party's right to preemptory strikes in civil or  
68 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.