

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 96**

4 (By Senators Sypolt and Williams)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;

7 reported January 17, 2012.]

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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 redefining the basis for  
13 disqualification of prospective jurors to include those who  
14 have been convicted of any crime punishable by imprisonment in  
15 excess of one year, perjury or false swearing.

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  
25 prospective juror is disqualified for jury service on the basis of  
26 information provided on the juror qualification form or interview

1 with the prospective juror or other competent evidence. 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  
26 fifty of this code;

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

3 (6) Has been convicted of perjury, false swearing or ~~other~~  
4 ~~infamous offense~~ any crime punishable by imprisonment in excess of  
5 one year under the applicable law of this state, another state or  
6 the United States.

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

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

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

25 (1) Reasonable accommodation includes, but is not limited to,  
26 certified interpreters for the hearing impaired, spokespersons for

1 the speech impaired and readers for the visually impaired.

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

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

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