

Senate Bill No. 601

(By Senators Foster, Beach and Klempa)

[Introduced February 15, 2012; 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, relating to jury service of women who are breast feeding; creating exceptions excusing women who are breast feeding from jury duty upon request; and requiring reasonable accommodations for breast-feeding juror if she chooses to serve.

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.

(a) The court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the

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

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

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

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

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

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

1 rule or regulation of the Supreme Court of Appeals promulgated
2 pursuant to the provisions of section eight, article five, chapter
3 fifty of this code;

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

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

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 juror who is breast-feeding her child or
12 children is not disqualified from service by virtue of the breast-
13 feeding, but she shall be excused from serving upon her request.
14 Should a prospective juror who is breast-feeding choose to serve as
15 a juror and is chosen to serve, the court shall reasonably
16 accommodate her ability to breast-feed her child or children.

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

21 ~~(e)~~ (f) A person who is physically disabled and can render
22 competent service with reasonable accommodation ~~shall not be~~ is not
23 ineligible to act as juror ~~or~~ and may not be dismissed from a jury
24 panel on the basis of disability alone: *Provided*, That the circuit

1 judge shall, upon motion by either party or upon his or her own
2 motion, disqualify a disabled juror if the circuit judge finds that
3 the nature of potential evidence in the case including, but not
4 limited to, the type or volume of exhibits or the disabled juror's
5 ability to evaluate a witness or witnesses, unduly inhibits the
6 disabled juror's ability to evaluate the potential evidence. For
7 purposes of this section:

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

11 (2) The court shall administer an oath or affirmation to any
12 person present to facilitate communication for a disabled juror.
13 The substance of ~~such~~ the oath or affirmation shall be that any
14 person present as an accommodation to a disabled juror ~~will~~ may not
15 deliberate on his or her own behalf, although present throughout
16 the proceedings, but act only to accurately communicate for and to
17 the disabled juror.

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

NOTE: The purpose of this bill is to modify jury service requirements by creating exceptions excusing women who are breast feeding from jury duty upon request and requiring reasonable accommodations for a breast-feeding juror if she chooses to serve.

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