

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 405**

4 (By Senators Cookman, Miller and Plymale)

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

7 reported January 29, 2014.]

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9  
10 A BILL to amend and reenact §52-1-5a and §52-1-9 of the Code of  
11 West Virginia, 1931, as amended, all relating to availability  
12 of jury qualification forms; limiting availability after  
13 conclusion of trial; and removing a conflict with another  
14 section of the code.

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

16 That §52-1-5a and §52-1-9 of the Code of West Virginia, 1931,  
17 as amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 1. PETIT JURIES.**

19 **§52-1-5a. Jury qualification form; contents; procedure for use;**  
20 **penalties.**

21 (a) Not less than twenty days before the date for which  
22 persons are to report for jury duty, the clerk may, if directed by  
23 the court, serve by first-class mail, upon each person listed on  
24 the master list, a juror qualification form accompanied by  
25 instructions necessary for its completion: *Provided*, That the clerk

1 may, if directed by the court, mail the juror qualification form to  
2 only those prospective jurors drawn for jury service under the  
3 provisions of section seven of this article. Each prospective  
4 juror shall be directed to complete the form and return it by mail  
5 to the clerk within ten days after its receipt. The juror  
6 qualification form is subject to approval by the circuit court as  
7 to matters of form and shall elicit the following information  
8 concerning the prospective juror:

9 (1) The juror's name, sex, race, age and marital status;

10 (2) The juror's level of educational attainment, occupation  
11 and place of employment;

12 (3) If married, the name of the juror's spouse and the  
13 occupation and place of employment of the spouse;

14 (4) The juror's residence address and the juror's mailing  
15 address if different from the residence address;

16 (5) The number of children which the juror has and their ages;

17 (6) Whether the juror is a citizen of the United States and a  
18 resident of the county;

19 (7) Whether the juror is able to read, speak and understand  
20 the English language;

21 (8) Whether the juror has any physical or mental disability  
22 substantially impairing the capacity to render satisfactory jury  
23 service: *Provided*, That a juror with a physical disability, who can  
24 with reasonable accommodation render competent service, is eligible  
25 for service;

26 (9) Whether the juror has, within the preceding two years,

1 been summoned to serve as a petit juror, grand juror or magistrate  
2 court juror, and has actually attended sessions of the magistrate  
3 or circuit court and been reimbursed for his or her expenses as a  
4 juror;

5 (10) Whether the juror has lost the right to vote because of  
6 a criminal conviction; and

7 (11) Whether the juror has been convicted of perjury, false  
8 swearing or any crime punishable by imprisonment in excess of one  
9 year under the applicable law of this state, another state or the  
10 United States.

11 The juror qualification form may also request information  
12 concerning the prospective juror's religious preferences and  
13 organizational affiliations, except that the form and the  
14 accompanying instructions shall clearly inform the juror that this  
15 information need not be provided if the juror declines to answer  
16 such inquiries.

17 (b) The juror qualification form shall contain the prospective  
18 juror's declaration that the responses are true to the best of the  
19 prospective juror's knowledge and an acknowledgment that a willful  
20 misrepresentation of a material fact may be punished by a fine of  
21 not more than \$500 or imprisonment for not more than thirty days,  
22 or both fine and imprisonment. Notarization of the juror  
23 qualification form shall not be required. If the prospective juror  
24 is unable to fill out the form, another person may assist the  
25 prospective juror in the preparation of the form and indicate that  
26 such person has done so and the reason therefor. If an omission,

1 ambiguity or error appear in a returned form, the clerk shall again  
2 send the form with instructions to the prospective juror to make  
3 the necessary addition, clarification or correction and to return  
4 the form to the clerk within ten days after its second receipt.

5 (c) Any prospective juror who fails to return a completed  
6 juror qualification form as instructed shall be directed by the  
7 clerk to appear forthwith before the clerk to fill out the juror  
8 qualification form. At the time of the prospective juror's  
9 appearance for jury service, or at the time of any interview before  
10 the court or clerk, any prospective juror may be required to fill  
11 out another juror qualification form in the presence of the court  
12 or clerk. At that time the prospective juror may be questioned  
13 with regard to the responses to questions contained on the form and  
14 the grounds for the prospective juror's excuse or disqualification.  
15 Any information thus acquired by the court or clerk shall be noted  
16 on the juror qualification form.

17 (d) Any person who willfully misrepresents a material fact on  
18 a juror qualification form or during any interview described in  
19 subsection (c) of this section, for the purpose of avoiding or  
20 securing service as a juror, is guilty of a misdemeanor and, upon  
21 conviction thereof, shall be fined not more than \$500 or imprisoned  
22 not more than thirty days, or both fined and imprisoned.

23 (e) Upon the clerk's receipt of the juror qualification  
24 questionnaires of persons selected as prospective petit jurors, he  
25 or she shall make the questionnaires of the persons so selected  
26 available, upon request, to counsel of record in the trial or

1 trials for which the persons have been selected as prospective  
2 jurors: Provided, That upon the conclusion of the trial the juror  
3 qualification forms for persons serving on a particular trial jury  
4 may only be released with the written permission of the judge who  
5 presided over the trial or his or her successor.

6 **§52-1-9. Assignment of jurors to jury panels; drawing of**  
7 **additional jurors upon shortage of qualified jurors.**

8 (a) The jurors drawn for jury service shall be assigned at  
9 random by the clerk to each jury panel in a manner prescribed by  
10 the court.

11 (b) If there is an unanticipated shortage of available petit  
12 jurors drawn from the jury wheel or jury box the court may require  
13 the sheriff to summon a sufficient number of petit jurors selected  
14 at random by the clerk from the jury wheel or jury box in a manner  
15 prescribed by the circuit court.

16 ~~(c) The names of the qualified jurors drawn from the jury~~  
17 ~~wheel or jury box and the contents of jury qualification forms~~  
18 ~~completed by those jurors shall be made available to the public.~~