

SB 405

**WEST VIRGINIA LEGISLATURE  
EIGHTY-FIRST LEGISLATURE  
REGULAR SESSION, 2014**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 405**

(SENATORS COOKMAN, MILLER AND PLYMALE,  
*ORIGINAL SPONSORS*)

[PASSED MARCH 5, 2014; IN EFFECT FROM PASSAGE.]

**FILED**  
2014 MAR 28 A 10:19  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**FILED**

2014 MAR 28 A 10:20

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

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

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

**ARTICLE I. PETIT JURIES.**

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

- 1 (a) Not less than twenty days before the date for which
- 2 persons are to report for jury duty, the clerk may, if directed
- 3 by the court, serve by first-class mail, upon each person listed
- 4 on the master list, a juror qualification form accompanied by

5 instructions necessary for its completion: *Provided*, That the  
05 6. Clerk may, if directed by the court, mail the juror qualification  
7 form to only those prospective jurors drawn for jury service  
A 8. under the provisions of section seven of this article. Each  
29 9. prospective juror shall be directed to complete the form and  
10 return it by mail to the clerk within ten days after its receipt.  
11 The juror qualification form is subject to approval by the  
12 circuit court as to matters of form and shall elicit the  
13 following information concerning the prospective juror:

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

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

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

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

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

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

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

27 (8) Whether the juror has any physical or mental  
28 disability substantially impairing the capacity to render  
29 satisfactory jury service: *Provided*, That a juror with a  
30 physical disability, who can with reasonable accommodation  
31 render competent service, is eligible for service;

32           (9) Whether the juror has, within the preceding two years,  
33       been summoned to serve as a petit juror, grand juror or  
34       magistrate court juror, and has actually attended sessions of  
35       the magistrate or circuit court and been reimbursed for his or  
36       her expenses as a juror;

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

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

43           The juror qualification form may also request information  
44       concerning the prospective juror's religious preferences and  
45       organizational affiliations, except that the form and the  
46       accompanying instructions shall clearly inform the juror that  
47       this information need not be provided if the juror declines to  
48       answer such inquiries.

49           (b) The juror qualification form shall contain the  
50       prospective juror's declaration that the responses are true to  
51       the best of the prospective juror's knowledge and an  
52       acknowledgment that a willful misrepresentation of a material  
53       fact may be punished by a fine of not more than \$500 or  
54       imprisonment for not more than thirty days, or both fine and  
55       imprisonment. Notarization of the juror qualification form  
56       shall not be required. If the prospective juror is unable to fill  
57       out the form, another person may assist the prospective juror  
58       in the preparation of the form and indicate that such person  
59       has done so and the reason therefor. If an omission, ambiguity  
60       or error appear in a returned form, the clerk shall again send  
61       the form with instructions to the prospective juror to make the  
62       necessary addition, clarification or correction and to return the  
63       form to the clerk within ten days after its second receipt.

64           (c) Any prospective juror who fails to return a completed  
65 juror qualification form as instructed shall be directed by the  
66 clerk to appear forthwith before the clerk to fill out the juror  
67 qualification form. At the time of the prospective juror's  
68 appearance for jury service, or at the time of any interview  
69 before the court or clerk, any prospective juror may be  
70 required to fill out another juror qualification form in the  
71 presence of the court or clerk. At that time the prospective  
72 juror may be questioned with regard to the responses to  
73 questions contained on the form and the grounds for the  
74 prospective juror's excuse or disqualification. Any  
75 information thus acquired by the court or clerk shall be noted  
76 on the juror qualification form.

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

84           (e) Upon the clerk's receipt of the juror qualification  
85 questionnaires of persons selected as prospective petit jurors,  
86 he or she shall make the questionnaires of the persons so  
87 selected available, upon request, to counsel of record in the  
88 trial or trials for which the persons have been selected as  
89 prospective jurors: *Provided*, That upon the conclusion of the  
90 trial the juror qualification forms for persons serving on a  
91 particular trial jury may only be released with the written  
92 permission of the judge who presided over the trial or his or  
93 her successor: *Provided, however*, That if the judge denies  
94 the request, the reasons for the denial must be in writing and  
95 be shared with all parties in the case and the person making  
96 the request within thirty days after filing the motion.

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

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

4           (b) If there is an unanticipated shortage of available petit  
5 jurors drawn from the jury wheel or jury box the court may  
6 require the sheriff to summon a sufficient number of petit  
7 jurors selected at random by the clerk from the jury wheel or  
8 jury box in a manner prescribed by the circuit court.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Member — Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

FILED

Originated in the Senate.

In effect from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

The within *is approved* ..... this  
the *28th* Day of *March* ..... 2014.

*[Signature]*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2014

Time 3:45 pm