

H. B. 2480

(By Delegates P. Smith and Lynch)

[Introduced January 28, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §62-3-3 of the Code of West Virginia, 1931, as amended, relating to changing the number of strikes in jury selection in felony cases to provide five strikes to the accused and three strikes to the prosecution.

Be it enacted by the Legislature of West Virginia:

That §62-3-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. TRIAL OF CRIMINAL CASES.

§62-3-3. Selection of jury in felony cases; striking jurors; alternate jurors.

In a case of felony, twenty jurors shall be drawn from those in attendance for the trial of the accused. If a sufficient number of jurors ~~for such panel~~ cannot be procured in this way, the court shall order others to be forthwith summoned and selected until a panel of twenty jurors, free from exception, ~~be completed, from which~~ is complete. From this panel the accused may strike off ~~six~~ five jurors and the prosecuting attorney may strike off ~~two~~ three jurors. The prosecuting attorney

1 ~~shall first strike off two jurors, and then the accused six~~ first strikes off one juror then the accused
2 strikes off one juror. The parties continue in this manner until all strikes have been used. If the
3 accused ~~failed~~ fails to strike ~~from such panel~~ the number of jurors this section allows, ~~him to strike,~~
4 the number not stricken off by him or her shall be stricken off by the prosecuting attorney ~~so as to~~
5 reduce the panel to twelve. ~~who shall compose the jury for the trial of the case.~~ This panel
6 composes the regular jury for trial of the case.

7 Whenever ~~in the opinion of the court~~ is of the opinion that the trial is ~~likely to be a~~ may be
8 a protracted one, ~~the court~~ it may direct ~~that not more than~~ up to four jurors, in addition to the regular
9 jury, be called and ~~impanelled to sit~~ impaneled as alternate jurors. Alternate jurors, in the order in
10 which they are called, shall replace jurors who, prior to the time the jury retires to consider its
11 verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the
12 same manner, ~~shall~~ have the same qualifications, ~~shall~~ be subject to the same examination and
13 challenges, ~~shall~~ take the same oath and ~~shall~~ have the same functions, powers, facilities and
14 privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be
15 discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory
16 challenge in addition to those otherwise allowed by law if one or two alternate jurors are ~~to be~~
17 ~~impanelled~~ impaneled and two peremptory challenges if three or four alternate jurors are ~~to be~~
18 ~~impanelled~~ impaneled. The additional peremptory challenges may be used against an alternate juror
19 only and the other peremptory challenges allowed by this section may not be used against an
20 alternate juror.

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NOTE: The purpose of this bill is to allow the accused to have five strikes from a panel of

jurors and to allow the prosecuting attorney to have three strikes from a panel of potential jurors.

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