

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 53

BY SENATORS SYPOLT, WILLIAMS AND BLAIR

[Introduced January 13, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §62-3-3 of the Code of West Virginia, 1931, as amended, relating
 2 to changing number of strikes in jury selection in felony cases to provide four strikes each
 3 to the accused and the prosecution; and setting forth the order strikes are to be taken.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. TRIAL OF CRIMINAL CASES.

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

1 In a case of felony, twenty jurors shall be drawn from those in attendance for the trial of
 2 the accused. If a sufficient number of jurors ~~for such panel~~ cannot be procured in this way, the
 3 court shall order others to be forthwith summoned and selected until a panel of twenty jurors, free
 4 from exception, ~~be completed, from which is complete.~~ From this panel the accused may strike
 5 off ~~six~~ four jurors and the prosecuting attorney may strike off ~~two~~ four jurors. The prosecuting
 6 attorney ~~shall first strike off two jurors, and then the accused six~~ first strikes off one juror then the
 7 accused strikes off one juror. The parties continue in this manner until all strikes have been used.
 8 If the accused ~~failed~~ fails to strike ~~from such panel~~ the number of jurors this section allows, ~~him~~
 9 ~~to strike,~~ the number not stricken off by him or her shall be stricken off by the prosecuting attorney
 10 ~~so as to reduce the panel to twelve. who shall compose the jury for the trial of the case.~~ This panel
 11 composes the regular jury for trial of the case.

12 Whenever ~~in the opinion of the court is of the opinion that the trial is likely to be a~~ may be
 13 a protracted one, ~~the court it~~ may direct that not more than up to four jurors, in addition to the
 14 regular jury, be called and ~~impaneled to sit~~ impaneled as alternate jurors. Alternate jurors, in the
 15 order in which they are called, shall replace jurors who, prior to the time the jury retires to consider
 16 its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn
 17 in the same manner, ~~shall~~ have the same qualifications, ~~shall~~ be subject to the same examination
 18 and challenges, ~~shall~~ take the same oath and ~~shall~~ have the same functions, powers, facilities

19 and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall
20 be discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory
21 challenge in addition to those otherwise allowed by law if one or two alternate jurors are ~~to be~~
22 ~~impaneled~~ impaneled and two peremptory challenges if three or four alternate jurors are ~~to be~~
23 ~~impaneled~~ impaneled. The additional peremptory challenges may be used against an alternate
24 juror only and the other peremptory challenges allowed by this section may not be used against
25 an alternate juror.

NOTE: The purpose of this bill is to allow both the accused and prosecuting attorney to have four strikes from a panel of potential jurors. The bill sets forth the order the strikes are to be taken. The bill changes the current code that permits the prosecution to have two strikes and the accused to have six strikes.

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