

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2480

2015 Carryover

(BY DELEGATES P. SMITH AND LYNCH)

[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 the number of strikes in jury selection in felony cases to provide five strikes to
 3 the accused and three strikes to the prosecution.

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~~ five jurors and the prosecuting attorney may strike off ~~two~~ three 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
 8 used. If the accused ~~failed~~ fails to strike ~~from such panel~~ the number of jurors this section allows,
 9 ~~him to strike,~~ the number not stricken off by him or her shall be stricken off by the prosecuting
 10 attorney ~~so as to reduce the panel to twelve. who shall compose the jury for the trial of the case.~~
 11 This panel 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 ~~impanelled to sit~~ impaneled as alternate jurors. Alternate jurors, in
 15 the order in which they are called, shall replace jurors who, prior to the time the jury retires to
 16 consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall

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

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.