

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 692

SENATOR TRUMP, *original sponsor*

[Passed March 7, 2020; in effect 90 days from passage]

1 AN ACT to amend and reenact §62-3-8 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying that persons charged with a felony offense or offenses are entitled to a
3 separate trial as to their guilt or innocence upon moving therefor; clarifying that the
4 statutory right to a separate trial preempts any provisions of law or judicial rule to the
5 contrary; and adding a proviso that the court may deny the motion for separate trials if the
6 court finds that requiring victim appearance at multiple trials will cause a victim of violence
7 or sexual assault undue mental or emotional distress.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. TRIAL OF CRIMINAL CASES.

§62-3-8. Jury for defendants indicted and tried jointly; jury for separate trials of persons jointly indicted.

1 (a) Persons indicted and tried jointly for a felony shall be allowed to strike from the panel
2 of jurors not more than six thereof, and only those they all agree upon shall be stricken from the
3 panel; and if they cannot agree upon the names to be stricken, the prosecuting attorney shall
4 strike from the panel a sufficient number of names to reduce the panel to 12. If persons jointly
5 indicted elect to be, or are, tried separately, the panel in the case of each shall be made up as
6 provided in §62-3-3 of this code.

7 (b)The Legislature finds that basic concepts of fairness dictate that a person charged with
8 a felony or felonies has a right to a speedy trial at which the primary focus is upon his or her guilt
9 or innocence.

10 (c) Notwithstanding any provision of law or judicial rule to the contrary, if a person is jointly
11 indicted with one or more other persons, each defendant charged with a felony offense or offenses
12 is entitled, upon motion, to his or her own separate trial at which his or her guilt or innocence of
13 the charge or charges will be determined: *Provided*, That in a trial of one or more felony offenses,
14 the court may deny the motion if it finds that requiring the appearance at multiple trials will cause
15 the victim of the violence or sexual assault undue mental or emotional distress.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2020.

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Governor