

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

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ENROLLED

SENATE BILL No. 9

(By Mr. Committee Substitute)

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PASSED February 28, 1949

In Effect Ninety days from Passage



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**ENROLLED**  
COMMITTEE SUBSTITUTE FOR  
**Senate Bill No. 9**

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[Passed February 28, 1949; in effect ninety days from passage.]

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AN ACT to amend and reenact section three, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to selection of jury in felony cases; striking jurors; and providing for alternate jurors.

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

That section three, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 3. *Selection of Jury in Felony Cases; Striking*  
2 *Jurors; Alternate Jurors.*—In a case of felony, twenty  
3 jurors shall be drawn from those in attendance for the  
4 trial of the accused. If a sufficient number of jurors for

5 such panel can not be procured in this way, the court shall  
6 order others to be forthwith summoned and selected, until  
7 a panel of twenty jurors, free from exception, be complet-  
8 ed, from which panel the accused may strike off six jurors  
9 and the prosecuting attorney may strike off two jurors.  
10 The prosecuting attorney shall first strike off two jurors,  
11 and then the accused six. If the accused failed to strike  
12 from such panel the number of jurors this section allows  
13 him to strike, the number not stricken off by him shall be  
14 stricken off by the prosecuting attorney, so as to reduce  
15 the panel to twelve, who shall compose the jury for the  
16 trial of the case.

17 Whenever, in the opinion of the court the trial is likely  
18 to be a protracted one, the court may direct that not more  
19 than four jurors, in addition to the regular jury, be called  
20 and impanelled to sit as alternate jurors. Alternate jurors  
21 in the order in which they are called shall replace jurors  
22 who, prior to the time the jury retires to consider its  
23 verdict, become unable or disqualified to perform their  
24 duties. Alternate jurors shall be drawn in the same man-  
25 ner, shall have the same qualifications, shall be subject to

26 the same examination and challenges, shall take the same  
27 oath and shall have the same functions, powers, facilities  
28 and privileges as the regular jurors. An alternate juror  
29 who does not replace a regular juror shall be discharged  
30 after the jury retires to consider its verdict. Each side is  
31 entitled to one peremptory challenge in addition to those  
32 otherwise allowed by law if one or two alternate jurors  
33 are to be impanelled, and two peremptory challenges if  
34 three or four alternate jurors are to be impanelled. The  
35 additional peremptory challenges may be used against an  
36 alternate juror only, and the other peremptory challenges  
37 allowed by this section may not be used against an alter-  
38 nate juror.

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

*Frank L. Mencer*

Chairman Senate Committee

*Lyman Chapman*

Chairman House Committee

Originated in the Senate.

Takes effect *Ninety days from* passage.

*Howard Keyes*

Clerk of the Senate

*J. A. Lipp*  
Clerk of the House of Delegates

*W. Broughton Hunter*

President of the Senate

*W. E. Glass*

Speaker House of Delegates

The within *APPROVED* this the *4th*

day of *MARCH*, 1949.

*Okey L. Patterson*  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia **MAR 8 1949**

**D. PITT O'BRIEN,**  
SECRETARY OF STATE