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]
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SENATOR TRUMP, original sponsor

[Passed March 7, 2020; in effect 90 days from passage]
AN ACT to amend and reenact §62-3-8 of the Code of West Virginia, 1931, as amended, relating to clarifying that persons charged with a felony offense or offenses are entitled to a separate trial as to their guilt or innocence upon moving therefor; clarifying that the statutory right to a separate trial preempts any provisions of law or judicial rule to the contrary; and adding a proviso that the court may deny the motion for separate trials if the court finds that requiring victim appearance at multiple trials will cause a victim of violence or sexual assault undue mental or emotional distress.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. TRIAL OF CRIMINAL CASES.


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

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

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

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is disapproved this the 25th Day of March, 2020.

Governor
PRESENTED TO THE GOVERNOR

MAR 18 2020

Time 9:50am