

Virginia State Crime Commission

Juror Disqualification

2007

JUROR DISQUALIFICATIONS IN CRIMINAL TRIALS

Senate Bill 952, introduced by Senator Frederick Quayle in the 2007 General Session of the Virginia General Assembly, would have added a new subsection to § 19.2-262 of the Code of Virginia. The new subsection would have provided a list of persons who would be disqualified from serving as jurors in a particular criminal case:

- 1. Any person who is related to the accused by blood or marriage;*
- 2. Any person who is related by blood or marriage to an officer or employee of the court;*
- 3. Any person who is related by blood or marriage to the attorney for the Commonwealth;*
- 4. Any person who is related by blood or marriage to a person against whom the alleged offense was committed;*
- 5. Any person who is an officer, director, agent, or employee of the accused;*
- 6. Any person who is an officer, director, agent, or employee of an officer or employee of the court;*
- 7. Any person who is an officer, director, agent, or employee of the attorney for the Commonwealth;*
- 8. Any person who is an officer, director, agent, or employee of a person against whom the alleged offense was committed;*
- 9. Any person who has any interest in the trial or the outcome of the case;*
- 10. Any person who has expressed or formed any opinion as to the guilt or innocence of the accused; or*
- 11. Any person who has a bias or prejudice against the Commonwealth or the accused.*

SB 952 was referred to the Senate Courts of Justice Committee, which sent a letter to the Crime Commission, asking it to review the bill. Commission staff reviewed the bill, in conjunction with the constitutional requirements and applicable state law provisions that apply in criminal cases.

The clear purpose behind SB 952 is to ensure that the jurors trying a criminal case are unbiased and will be objective in reaching their verdict. This basic objective is a fundamental tenet of the criminal justice system. Both the Sixth Amendment of the United States Constitution and Article 1, section 8 of the Virginia Constitution expressly guarantee an accused the right to an “impartial jury.” This principle also has been reiterated repeatedly by the Virginia Supreme Court. To cite one example, the Court stated, in Breeden v. Commonwealth, 217 Va. 297, 298 (1976), “The right of an accused to trial by an impartial jury is a constitutional right. The constitutional guarantee is reinforced by legislative mandate and by the rules of this Court: veniremen must stand indifferent in the cause.”

The reference to the “rules of this Court” in the above quotation is to Rule 3A:14(a) of the Rules of the Virginia Supreme Court. This rule mandates that a trial court ask prospective jurors certain questions to ascertain if they have any bias, even before counsel for both sides begin their voir dire. The questions that are listed in Rule 3A:14(a) are so similar to the proposed prohibitions listed in SB 952 that they appear to have been the immediate template for the language of the bill:

Examination. After the prospective jurors are sworn on the voir dire, the court shall question them individually or collectively to determine whether anyone:

(1) Is related by blood or marriage to the accused or to a person against whom the alleged offense was committed;

(2) Is an officer, director, agent or employee of the accused;

(3) Has any interest in the trial or the outcome of the case;

(4) Has acquired any information about the alleged offense or the accused from the news media or other sources and, if so, whether such information would affect his impartiality in the case;

(5) Has expressed or formed any opinion as to the guilt or innocence of the accused;

(6) Has a bias or prejudice against the Commonwealth or the accused; or

(7) Has any reason to believe he might not give a fair and impartial trial to the Commonwealth and the accused based solely on the law and the evidence.

Thereafter, the court, and counsel as of right, may examine on oath any

prospective juror and ask any question relevant to his qualifications as an impartial juror. A party objecting to a juror may introduce competent evidence in support of the objection.

Because the Rules of the Virginia Supreme Court are binding upon all trial courts, the goal of SB 952 is already being carried out during the voir dire for criminal trials. Question (7) of Rule 3A:14(a), in particular, demonstrates by its general nature the importance of ensuring that the members of the jury are unbiased in the case.

Considering how similar the language of SB 952 and Rule 3A:14(a) is, enacting the bill would only serve to place duplicative language into the Code of Virginia. Based upon this analysis, the Crime Commission declined to endorse SB 952, making no recommendation on the bill and taking no additional action.