



# Virginia State Crime Commission

## Disqualifications from Serving on a Criminal Jury

November 13, 2007

# Overview



- **Senate Bill 952 would insert new language into the Code of Virginia, making clear that:**
  - **The following persons shall be disqualified from serving as jurors in a criminal case:**
    - **(1) Any person related to the accused by blood or marriage;**
    - **(2) Any person related by blood or marriage to an officer or employee of the court;**
    - **(3) Any person related by blood or marriage to the Commonwealth's Attorney;**
    - **(4) Any person related by blood or marriage to the victim; (cont.)**

# Overview



- (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 the court;
- (7) Any person who is an officer, director, agent, or employee of Commonwealth's Attorney;
- (8) Any person who is an officer, director, or employee of the victim;
- (9) Any person who has any interest in the trial or outcome of the case;
- (10) Any person who has expressed or formed any opinion as to the guilt or innocence of the accused;
- (11) Any person who has a bias or prejudice against the Commonwealth or the accused.

# Analysis



- Both the Sixth Amendment to the Constitution of the United States, and Article 1, § 8 of the Virginia Constitution, guarantee an accused the right to an impartial jury.
- This fundamental principle has been reiterated repeatedly by the Virginia Supreme Court.

# Analysis



- “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.” Breeden v. Commonwealth, 217 Va. 297 (1976) (additional citations omitted).

# Analysis



- Rule 3A:14(a) of the Rules of Court mandates that the court ask prospective jurors certain questions to ascertain if they have any bias, even before counsel for both sides begin their voir dire.

# Analysis



- Rule 3A:14(a) states:
  - After the prospective jurors are sworn on the voir dire, the court shall question them. . .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...(cont.)

# Analysis



- (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.

# Conclusion.



- Almost all of the language in proposed Senate Bill 952 is copied from the existing Rule 3A:14(a).
- Because the Rule of Court is binding upon trial courts, it would not appear that there is much need to incorporate identical language in the Code of Virginia.



# Discussion