

60-248. Jury trial procedure. (a) *Stipulation as to number.* The parties may stipulate that the jury consist of any number less than 12 or, subject to the provisions of subsection (g), that a verdict or a finding of a stated majority of the jurors be taken as the verdict or finding of the jury.

(b) *View of property or place.* When the court finds it is proper for the jury to view property that is the subject of litigation or the place where any material fact occurred, the court may order the jury to be taken, as a group and under the charge of an officer, to the property or place. The court must appoint a person or persons to conduct the view. While the jury is thus absent, no person other than the appointed person is permitted to speak to any juror on any subject connected with the trial. A view permitted under this subsection must not be considered by the court in determining any questions of the sufficiency or insufficiency of evidence.

(c) *Case submitted, action and conduct of jury.* When a case is submitted to the jury, the jury must retire for deliberation. The jurors must be kept together in a convenient place under the charge of an officer until they agree on a verdict, or are discharged by the court. The court may permit them to separate temporarily at night and at their meals. Unless the court orders otherwise, the officer having charge of the jurors must not make or allow to be made any communications to them, except the officer may ask them if they are agreed on their verdict. Before the verdict is rendered, the officer must not communicate to any person the state of the jury's deliberations or the verdict agreed on.

(d) *Separation of jury; admonition of court.* If the jurors are permitted to separate, either during the trial or after the case is submitted to them, the court must admonish them that:

- (1) It is their duty not to converse with, or allow themselves to be addressed by, any other person on any subject of the trial;
- (2) it is their duty to keep an open mind and not to express an opinion on the subject of the trial until the case is submitted to them;

and

- (3) the admonition applies to every separation of the jurors.

(e) *Jury may request information after retiring.* After the jury has retired for deliberation, it may request further information as to any part of the law or evidence pertaining to the case by communicating the request in writing through the bailiff to the court. The court, after notice to counsel for the parties, may consider and respond to the jury's request in writing or on the record.

(f) *Discharge of jury, when.* The court may discharge the jury:

- (1) Because of sickness of a juror, or other necessity found by the court;
- (2) by the parties' consent; or
- (3) when it satisfactorily appears that there is no probability of the jurors reaching a verdict.

(g) *Verdict; number of jurors required; form; correction.* When the jury consists of 12 members, the agreement of 10 jurors is sufficient to render a verdict. In all other cases, subject to the stipulation of the parties as provided in subsection (a), the verdict must be by agreement of all the jurors. The verdict must be in writing and signed by the presiding juror. The court or clerk must read the verdict to the jurors and ask whether it is their verdict. The court must on a party's request, or may on its own, poll the jurors individually. If the poll reveals a lack of assent by the number of jurors required, the court must either direct the jury to deliberate further or order a new trial. If the required number of jurors agree and no party requires the jurors to be polled individually, the verdict is complete and the court must then discharge the jury. If the verdict is defective in form only, the verdict may be corrected by the court, with the assent of the jury, before the jury is discharged.

(h) *Alternate jurors.* The court may empanel one or more alternate jurors to replace jurors who, prior to the time the jury retires to consider its verdict, are found to be unable to perform their duties. Alternate jurors must be selected in the same manner, have the same qualifications, be subject to the same examination and challenges, take the same oath and have the same functions, powers and privileges as the regular jurors. Each party is entitled to one peremptory challenge to the alternate jurors. The alternate jurors must be seated near the regular jurors, with equal ability to see and hear the proceedings, and they must attend the entire trial. The alternate jurors must obey the orders of and are bound by the admonition of the court upon each adjournment, but if the regular jurors are ordered to be kept in custody during the trial, the alternate jurors also must be confined with the other jurors. Upon submission of the case to the jury, the alternate jurors may be discharged or they may be retained separately and not discharged until the jury reaches its decision. If the alternate jurors are not discharged on submission of the case and if any regular juror is discharged before the jury reaches a decision, the court may draw the name of an alternate juror to replace the discharged juror, subject to the same rules and regulations as though the juror had been selected as one of the original jurors.

History: L. 1963, ch. 303, 60-248; L. 1971, ch. 176, § 16; L. 1973, ch. 232, § 1; amended by Supreme Court order dated July 28, 1976; L. 1978, ch. 226, § 1; L. 1984, ch. 112, § 24; L. 2010, ch. 135, § 118; July 1.