

22-3420. Conduct of jury after submission. (a) When the case is finally submitted to the jury, they shall retire for deliberation. They must be kept together in some convenient place under charge of a bailiff until they agree upon a verdict, or be discharged by the court, subject to the discretion of the court to permit them to separate temporarily at night, and at their meals. The bailiff having them under such bailiff's charge shall not allow any communications to be made to them, or communicate with them, unless by order of the court. Before the jury's verdict is rendered the bailiff shall not communicate to any person the state of their deliberations, or the verdict agreed upon. No person other than members of the jury shall be present in the jury room during deliberations.

(b) If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court 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, and that any attempt to do so should be immediately reported by them to the court; (2) it is their duty not to make any final determinations or express any opinion on any subject of the trial until the case is finally submitted to them; and (3) such admonition shall apply to every subsequent separation of the jury.

(c) In the court's discretion, upon the jury's retiring for deliberation, the jury may take any admitted exhibits into the jury room, where they may review them without further permission from the court. If necessary, the court may provide equipment to facilitate review.

(d) The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to discuss an appropriate response. The defendant must be present during the discussion of such written questions, unless such presence is waived. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear testimony. The defendant must be present during any response if given in open court, unless such presence is waived. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record.

(e) The jury may be discharged by the court on account of the sickness of a juror, or other accident or calamity, or other necessity to be found by the court requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

(f) The amendments to this section by this act establish a procedural rule, and as such shall be construed and applied retroactively.

History: L. 1970, ch. 129, § 22-3420; L. 2014, ch. 102, § 7; July 1.