

HOUSE BILL No. 2490

By Committee on Judiciary

1-23

1 AN ACT concerning criminal procedure; relating to trials; conduct of jury
2 after case is submitted; amending K.S.A. 22-3420 and repealing the
3 existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 22-3420 is hereby amended to read as follows: 22-
7 3420. ~~(†)~~ (a) When the case is finally submitted to the jury, they shall
8 retire for deliberation. They must be kept together in some convenient
9 place under charge of a ~~duly sworn officer~~ *bailiff* until they agree upon a
10 verdict, or be discharged by the court, subject to the discretion of the court
11 to permit them to separate temporarily at night, and at their meals. The
12 ~~officer~~ *bailiff* having them under ~~his such bailiff's~~ charge shall not allow
13 any communications to be made to them, or ~~make any himself~~
14 *communicate with them*, unless by order of the court; ~~and before their~~
15 *Before the jury's* verdict is rendered ~~he~~ *the bailiff* shall not communicate to
16 any person the state of their deliberations, or the verdict agreed upon. No
17 person other than members of the jury shall be present in the jury room
18 during deliberations.

19 ~~(2)~~ (b) If the jury is permitted to separate, either during the trial or
20 after the case is submitted to them, they shall be admonished by the court
21 that: (1) It is their duty not to converse with, or allow themselves to be
22 addressed by any other person on any subject of the trial, and ~~that any~~
23 *attempt to do so should be immediately reported by them to the court;* (2)
24 it is their duty not to ~~form or express an opinion thereon~~ *make any final*
25 *determinations or express any opinion on any subject of the trial* until the
26 case is finally submitted to them, ~~and that;~~ and (3) such admonition shall
27 apply to every subsequent separation of the jury. *Jurors are permitted to*
28 *assimilate and evaluate the evidence as it accumulates during trial, but*
29 *shall not begin deliberating until the case is finally submitted to them.*

30 ~~(3)~~ After the jury has retired for deliberation, if they desire to be
31 informed as to any part of the law or evidence arising in the case, they may
32 request the officer to conduct them to the court, where the information on
33 the point of the law shall be given, or the evidence shall be read or
34 exhibited to them in the presence of the defendant, unless he voluntarily
35 absents himself, and his counsel and after notice to the prosecuting
36 attorney.

1 (c) Upon retiring for deliberation, the jury may take all admitted
2 exhibits into the jury room, where they may review them without further
3 permission from the court. If necessary, the court may provide equipment
4 to facilitate review.

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

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

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

24 Sec. 2. K.S.A. 22-3420 is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.