

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 492  
Judiciary I Committee Substitute Adopted 4/13/05

Short Title: Jury Exhibits.

(Public)

Sponsors:

Referred to:

March 15, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE PRESIDING TRIAL JUDGE IN BOTH CIVIL AND CRIMINAL CASES HAS THE SOLE DISCRETION TO DETERMINE WHETHER JURORS MAY TAKE EXHIBITS INTRODUCED INTO EVIDENCE IN THE JURY ROOM AND THAT THE CONSENT OF ALL PARTIES IS NOT NECESSARY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 15A-1233 reads as rewritten:

**"§ 15A-1233. Review of testimony; use of evidence by the jury.**

(a) If the jury after retiring for deliberation requests a review of certain testimony or other evidence, the jurors must be conducted to the courtroom. ~~The judge~~the court in ~~his~~its discretion, after notice to the prosecutor and defendant, may direct that requested parts of the testimony be read to the jury and may permit the jury to reexamine in open court the requested materials admitted into evidence. ~~In his discretion the judge~~The court in its discretion may also have the jury review other evidence relating to the same factual issue so as not to give undue prominence to the evidence requested.

(b) ~~Upon request by the jury and with consent of all parties, the judge may in his discretion permit the jury to take to the jury room exhibits and writings which have been received in evidence. If the judge permits the jury to take to the jury room requested exhibits and writings, he may have the jury take additional material or first review other evidence relating to the same issue so as not to give undue prominence to the exhibits or writings taken to the jury room. If the judge permits an exhibit to be taken to the jury room, he must, upon request, instruct the jury not to conduct any experiments with the exhibit. The court in its discretion may permit the jury, upon retiring for deliberation, to take to the jury room a copy of the charges against the defendant. The court should permit the jury to take exhibits and writings that have been received in evidence, except depositions, and copies of instructions previously given.~~

(c) The court may refrain from sending certain material to the jury room if the court determines either of the following:

1           (1) That the material may be subjected to improper use by the jury or  
2           unduly prejudicial to any party.

3           (2) That the material might be dangerous to jurors or to others.

4           (d) In sending any exhibits to the jury, the court should ensure that the  
5 evidentiary integrity of the exhibit is preserved."

6           **SECTION 2.** Article 19 of Chapter 1 of the General Statutes is amended by  
7 adding a new section to read:

8 **"§ 1-181.2. Use of evidence by the jury.**

9           (a) If the jury after retiring for deliberation requests a review of certain testimony  
10 or other evidence, the jurors must be conducted to the courtroom. The court in its  
11 discretion, after notice to the plaintiff and defendant, may direct that requested parts of  
12 the testimony be read to the jury and may permit the jury to reexamine in open court the  
13 requested materials admitted into evidence. The court in its discretion may also have the  
14 jury review other evidence relating to the same factual issue so as not to give undue  
15 prominence to the evidence requested.

16           (b) The court in its discretion may permit the jury, upon retiring for deliberation,  
17 to take to the jury room a copy of the charges against the defendant. The court should  
18 permit the jury to take exhibits and writings that have been received in evidence, except  
19 depositions, and copies of instructions previously given.

20           (c) The court may refrain from sending certain material to the jury room if the  
21 court determines either of the following:

22           (1) That the material may be subjected to improper use by the jury or  
23           unduly prejudicial to any party.

24           (2) That the material might be dangerous to jurors or to others.

25           (d) In sending any exhibits to the jury, the court should ensure that the  
26 evidentiary integrity of the exhibit is preserved."

27           **SECTION 3.** This act becomes effective October 1, 2005.