

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 522
PROPOSED SENATE COMMITTEE SUBSTITUTE H522-PCS10514-TU-15

Short Title: Modify Service/Release of Alternate Jurors. (Public)

Sponsors:

Referred to:

April 12, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE PROVISIONS REGULATING THE SERVICE AND RELEASE
3 OF ALTERNATE JURORS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-1215(a) reads as rewritten:

6 "(a) The judge may permit the seating of one or more alternate jurors. Alternate jurors
7 must be sworn and seated near the jury with equal opportunity to see and hear the proceedings.
8 They must attend the trial at all times with the jury, and obey all orders and admonitions of the
9 judge. When the jurors are ordered kept together, the alternate jurors must be kept with them.
10 The court should ensure that the alternate jurors do not discuss the case with anyone until that
11 alternate replaces a juror or is discharged. If before final submission of the case to the jury, at
12 any time prior to a verdict being rendered, any juror dies, becomes incapacitated or disqualified,
13 or is discharged for any other reason, an alternate juror becomes a juror, in the order in which
14 selected, and serves in all respects as those selected on the regular trial panel. If an alternate juror
15 replaces a juror after deliberations have begun, the court must instruct the jury to begin its
16 deliberations anew. In no event shall more than 12 jurors participate in the jury's deliberations.
17 Alternate jurors receive the same compensation as other jurors and, unless they become jurors,
18 must be discharged upon the final submission of the case to the jury in the same manner and at
19 the same time as the original jury."

20 **SECTION 2.** G.S. 15A-1221(a) reads as rewritten:

21 "(a) The order of a jury trial, in general, is as follows:

22 ...

23 (10) The jury must retire to deliberate, and alternate jurors who have not been
24 seated must be excused as provided in G.S. 15A-1215. deliberate."

25 **SECTION 3.** G.S. 15A-1340.16(a1) reads as rewritten:

26 "(a1) Jury to Determine Aggravating Factors; Jury Procedure if Trial Bifurcated. – The
27 defendant may admit to the existence of an aggravating factor, and the factor so admitted shall
28 be treated as though it were found by a jury pursuant to the procedures in this subsection.
29 Admissions of the existence of an aggravating factor must be consistent with the provisions of
30 G.S. 15A-1022.1. If the defendant does not so admit, only a jury may determine if an aggravating
31 factor is present in an offense. The jury impaneled for the trial of the felony may, in the same
32 trial, also determine if one or more aggravating factors is present, unless the court determines
33 that the interests of justice require that a separate sentencing proceeding be used to make that
34 determination. If the court determines that a separate proceeding is required, the proceeding shall
35 be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict
36 is returned. If prior to the time that the trial jury begins its deliberations on the issue of at any



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1 time prior to rendering a decision to the court regarding whether one or more aggravating factors
2 exist, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an
3 alternate juror shall become a part of the jury and serve in all respects as those selected on the
4 regular trial panel. An alternate juror shall become a part of the jury in the order in which the
5 juror was selected. If an alternate juror replaces a juror after deliberations have begun, the court
6 must instruct the jury to begin its deliberations anew. In no event shall more than 12 jurors
7 participate in the jury's deliberations. If the trial jury is unable to reconvene for a hearing on the
8 issue of whether one or more aggravating factors exist after having determined the guilt of the
9 accused, the trial judge shall impanel a new jury to determine the issue. A jury selected to
10 determine whether one or more aggravating factors exist shall be selected in the same manner as
11 juries are selected for the trial of criminal cases."

12 **SECTION 4.** G.S. 20-179(a1)(3) reads as rewritten:

13 "(3) Convening the jury. – If ~~prior to the time that the trial jury begins its~~
14 ~~deliberations on the issue of~~ at any time prior to rendering a decision to the
15 court regarding whether one or more aggravating factors exist, any juror dies,
16 becomes incapacitated or disqualified, or is discharged for any reason, an
17 alternate juror shall become a part of the jury and serve in all respects as those
18 selected on the regular trial panel. An alternate juror shall become a part of
19 the jury in the order in which the juror was selected. If an alternate juror
20 replaces a juror after deliberations have begun, the court must instruct the jury
21 to begin its deliberations anew. In no event shall more than 12 jurors
22 participate in the jury's deliberations. If the trial jury is unable to reconvene
23 for a hearing on the issue of whether one or more aggravating factors exist
24 after having determined the guilt of the accused, the trial judge shall impanel
25 a new jury to determine the issue."

26 **SECTION 5.** This act becomes effective October 1, 2021, and applies to jurors and
27 alternate jurors selected on or after that date.