CHAPTER 29-22
JURY AFTER SUBMISSION OF CAUSE AND VERDICT

29-22-01. Retirement of jurors.

After hearing the charge, the jurors shall retire for deliberation to a room which must be provided for them by the board of county commissioners. Such room must be supplied with heat, light, and other conveniences. If a room is not provided by such board, the court may order the sheriff to provide one and the expenses incurred in complying with such order, when certified by the court, are a charge against the county.

29-22-02. Custody of jurors.

The jurors shall retire in charge of one or more officers who must be sworn to keep them together in some private and convenient place until they have rendered their verdict. Such officer or officers shall furnish food and other necessaries to the jurors, at the expense of the state, as directed by the court, and may not speak to nor communicate with such jurors or any of them nor permit any other person so to do except by order of the court. Men and women jurors may retire, when rest or sleep or propriety requires it, to separate rooms.

29-22-03. Selection of a foreman.

The court shall appoint one of the jurors foreman or instruct the jurors to select one of their number as foreman.

29-22-04. What papers jurors may take.

Upon retiring for deliberation, the jurors may take with them:

1. All papers or things other than depositions which have been received as evidence in the cause, but if, in the opinion of the court, a public record or private document received in evidence should not be taken from the person having possession, a copy must be taken instead of the original;
2. All or such parts of the written instructions as the court may direct;
3. Notes of the testimony, or other proceedings on the trial, taken by jurors themselves or any of them, but none taken by any other person; and
4. Forms of verdict approved by the court.

29-22-05. Disagreement - Further instructions.

Superseded by N.D.R.Crim.P., Rule 43.

29-22-06. Court may recall jurors for supplemental instructions.

The court may recall the jurors after they have retired to consider their verdict to give them additional instructions or to correct any erroneous instructions it has given them. Such additional or corrective instructions may be given only after notice to the state's attorney and to counsel for the defendant.

29-22-07. Court open during absence of jury.

While the jurors are absent, the court may adjourn from time to time as to other business, but it nevertheless is deemed open for every purpose connected with the cause submitted to them until a verdict is rendered or the jury is discharged.

29-22-08. Verdict prevented - Cause retried.

When jurors are discharged or prevented from giving a verdict by reason of an accident or other cause, except when the defendant is discharged from the information or indictment during the progress of the trial or after the cause is submitted to them, the cause may be tried again at the same or another term, as the court may direct.

29-22-09. Return of verdict.

When the jurors have agreed upon their verdict, they must be conducted into court by the officer having them in charge. Their names then must be called and if not all of them appear, the rest must be discharged without giving a verdict. In that case the cause must be tried again at the same or another term.

29-22-10. Verdict may be oral or in writing - Preparation.

The verdict of the jurors may be rendered orally or in writing, as the jurors may elect, unless the court, at the time the case is submitted to the jurors, requires that it be rendered in writing. When the court so requires, the clerk of the court, under the direction of the court, shall provide blank verdicts of suitable form for any verdict the jurors may return in the action and such blank verdicts must be taken by the jurors when they retire.

29-22-11. Presence of defendant - Felony or misdemeanor.

Superseded by N.D.R.Crim.P., Rule 43.

29-22-12. Procedure when jurors appear.

When the jurors appear, they must be asked by the court or the clerk whether they have agreed upon their verdict and if the foreman answers in the affirmative, they, on being required, shall declare the same.

29-22-13. Jurors may be polled - Procedure.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-14. Clerk to record verdict - Dissent - Procedure.

When the verdict given is such as the court may receive, the clerk immediately shall record it in full upon the minutes and shall read it to the jurors and inquire of them whether it is their verdict. If any juror disagrees, the fact must be entered upon the minutes and the jurors again sent out, but if no disagreement is expressed, the verdict is complete and the jurors must be discharged from the case.

29-22-15. General or special verdict - Libel.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-16. General verdicts - Contents.

Repealed by S.L. 1981, ch. 91, § 66.

29-22-17. Special verdict - Sufficiency.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-18. Special verdict rendered in writing.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-19. Form of special verdict.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-20. Sealed verdict - Proceedings upon.

The court, with the consent of the state's attorney and the defendant, may instruct the jurors that if they should agree upon a verdict during a temporary adjournment of the court, they may sign the same by their foreman, seal it in an envelope, and deliver it to the officer in whose charge they are, after which they may separate until the next convening of the court, at which time they shall reassemble in the jury box. As soon as convenient, the officer shall deliver the sealed verdict to the clerk. When the jurors have reassembled in open court, the envelope must be opened and the same proceedings must be had as upon the reception of other verdicts, except that the consent by the defendant to a sealed verdict constitutes a waiver of the

defendant's right to poll the jury as provided in rule 31 of the North Dakota Rules of Criminal Procedure.

29-22-21. Sealed verdict - Admonition to jurors.

If the court authorizes the rendition of a sealed verdict, it shall admonish the jurors not to make any disclosure concerning it nor to speak with any other person concerning the cause until their verdict has been rendered in open court.

29-22-22. Verdict rendered and additional instruction given on any day.

A verdict and additional or corrective instructions may be given on any day, including Sunday or any legal holiday.

29-22-23. Conviction of attempt or of included offense.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-24. Finding on charge of previous conviction.

Whenever the fact of a previous conviction of another offense is charged in the information or indictment, the jurors, if they find a verdict of guilty of the offense with which the defendant is charged, also must find whether or not the defendant has suffered such previous conviction, unless the answer of defendant admits the charge. In addition to the verdict of "guilty", the verdict of the jurors upon a charge of previous conviction may be, "we also find the charge of previous conviction true", or "we also find the charge of previous conviction not true", as they find that the defendant has or has not suffered such conviction.

29-22-25. Several defendants - Part convicted.

Superseded by N.D.R.Crim.P., Rule 31.

29-22-26. Verdict returned - Duty of court - May decrease or increase punishment.

If the jurors return a verdict of guilty against the accused, the court, before it is accepted, shall ascertain whether it conforms to the law of the case. If, in the opinion of the court, the verdict does not conform to the requirements of the law of the case, the court, with proper instructions as to the error, shall direct the jurors to reconsider the verdict and the verdict cannot be accepted nor recorded until it is rendered in proper form. But if the punishment imposed by the jurors in the verdict, when they are authorized by law to determine the punishment, is not in conformity to the law of the case in that regard, the court may proceed as follows:

1. If the punishment imposed by the jurors in the verdict is under the limit prescribed by law for the offense of which the defendant is found guilty, the court may receive the verdict and thereupon render judgment and pronounce sentence for the lowest limit prescribed by law in such a case; or
2. If the punishment imposed by the jurors in the verdict is greater than the highest limit prescribed by law for the offense of which the defendant is found guilty, the court shall disregard the excess and render judgment and pronounce sentence according to the highest limit prescribed by law in the particular case.

29-22-27. Reconsideration of verdict of guilty - None of acquittal.

When there is a verdict of conviction in which it appears to the court that the jurors have mistaken the law, the court may explain the reason for that opinion and may direct the jurors to reconsider their verdict. If, after the reconsideration, they return the same verdict, it must be entered. When there is a verdict of acquittal, the court cannot require the jurors to reconsider it.

29-22-28. Reconsideration of verdict neither general nor special.

If the jurors render a verdict which is neither a general nor a special verdict, the court, with proper instructions as to the law, may direct them to reconsider it, and it cannot be recorded until it is rendered in such form that it can be clearly understood therefrom whether the intent of

the jurors is to render a general verdict or to find the facts specially and to leave the judgment to the court.

29-22-29. Judgment if jurors persist - Acquittal.

If the jurors persist in finding a verdict such as is described in section 29-22-28 from which it can be clearly understood that their intention is to find in favor of the defendant upon the issue, it must be entered in the terms in which it is found, and the court shall give a judgment of acquittal. No judgment of conviction can be given, however, unless the jurors expressly find against the defendant upon the issue, or unless judgment is given against the defendant on a special verdict.

29-22-30. Judgment of acquittal - Discharge of defendant.

If a judgment of acquittal is given on a general verdict and the defendant is not detained for any other legal cause, the defendant must be discharged as soon as judgment is given.

29-22-31. Verdict of guilty - Procedure.

If a general verdict is rendered against the defendant, or a special verdict is given, the defendant must be remanded, if in custody, or, if the defendant is at large on bail, may be committed to the proper officer of the county to await the judgment of the court upon the verdict. When committed, the defendant's bail is exonerated, or if money is deposited instead of bail, it must be refunded in accordance with section 29-08-28.

29-22-32. Argument of special verdict.

A special verdict may be brought to argument by either party, upon two days' notice to the other, at the same or another term of the court.

29-22-33. Judgment upon special verdict.

Repealed by S.L. 2023, ch. 304, § 1.

29-22-34. New trial must be ordered for incomplete verdict.

If the jurors, in a special verdict, do not pronounce affirmatively or negatively on the facts necessary to enable the court to give judgment, or if they find the evidence of facts merely and not the conclusions of fact from the evidence, as established to their satisfaction, the court shall order a new trial.

29-22-35. When conviction or acquittal a bar.

If the defendant has been convicted or acquitted upon an information or indictment for an offense consisting of different degrees, the conviction or acquittal is a bar to another information or indictment for the offense charged or for any lower degree of that offense or for an offense necessarily included therein.

29-22-36. When defense insanity and jury acquits.

Repealed by S.L. 1981, ch. 91, § 66.

29-22-37. Discharge of jurors.

After the retirement of the jurors to consider their verdict, they may be discharged from the cause when:

1. The verdict has been returned and entered on the minutes of the court;
2. One of the jurors becomes so sick that that juror cannot continue to discharge that juror's duty and there is no alternate juror;
3. Any accident or other cause prevents keeping the jurors together for deliberation;
4. Upon the expiration of such time as the court deems proper, it appears that there is no reasonable probability that the jurors can agree upon a verdict; or
5. The court finally adjourns.

The court in any event may discharge the jurors from the cause if the state's attorney and the defendant consent to such discharge and their consent is entered upon the minutes of the court.

29-22-38. Juror counseling following graphic evidence or testimony.

1. The court shall offer, not more than ten hours of post-trial psychological counseling, without charge, to a juror or alternate juror who served on a trial jury in a trial involving extraordinarily graphic, gruesome, or emotional evidence or testimony.
2. The counseling offered under subsection 1 applies only to a juror or alternate juror who served on a trial jury for a trial involving the following offenses:
   a. Murder under section 12.1-16-01;
   b. Manslaughter under section 12.1-16-02;
   c. Negligent homicide under section 12.1-16-03;
   d. Felony-level assault or domestic violence under chapter 12.1-17;
   e. A sexual offense under chapter 12.1-20 or 12.1-27.2;
   f. Abuse or neglect of a child under sections 14-09-22 and 14-09-22.1; and
   g. Others as determined by the court.
3. The counseling offered under this section:
   a. Must occur not later than one hundred eighty days after the jury is discharged;
   b. May be provided by the court system, by a state agency, or by contract; and
   c. May be individual or group counseling.