

# IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

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## Michigan Jury Innovations

### 1. Note Taking

N/A

### 2. Juror Handbooks/Notebooks

N/A

### 3. Juror Questions and Questioning of Witnesses

N/A

### 4. Juror Pay/Compensation

#### **Compensation of jurors and constables**

Sec. 13. Each justice court juror shall be entitled to receive \$6.00 for each day's attendance, and \$3.00 for each half day's attendance upon any term of justice court, to be paid out of the city treasury of the city on the certificate or order of the clerk of the justice court: Provided, There shall be deducted therefrom the amount of any certificate issued to such juror on account of services performed as a juror in a case brought for a violation of the criminal laws of the state. The constable, or deputy sheriff, summoning said jurors, shall be entitled to receive the sum of 50 cents for each summons so served, and the constable shall be entitled to \$4.00 per day for each day's attendance and \$2.00 for each half day's attendance upon the jury at any such jury term, to be paid out of the city treasury on the certificate or order of the clerk of the justice court. Any city may by ordinance increase the compensation of jurors and constables to a sum not exceeding \$6.00 for each day's attendance and \$3.00 for each half day's attendance.

MCLS § 730.263 (2005)

#### **Jurors; mileage and compensation; payment of jury fee where action removed from circuit court to lower court; fraudulent issuance of certificate of attendance as misdemeanor; penalty**

Sec. 1344. (1) A juror shall be reimbursed for his or her traveling expenses at a rate, determined by the county board of commissioners, that is not less than 10 cents per mile for traveling from the juror's residence to the place of holding court and returning for each day or 1/2 day of actual attendance at sessions of the court.

(2) A juror also shall be compensated at a rate, determined by the county board of commissioners, as follows:

(a) Until October 1, 2003, not less than \$15.00 per day and \$7.50 per 1/2 day of actual attendance at the court.

(b) Beginning October 1, 2003, a rate determined as follows:

(i) For the first day or 1/2 day of actual attendance at the court, not less than \$25.00 per day and \$12.50 per 1/2 day.

(ii) For each subsequent day or 1/2 day of actual attendance at the court, not less than \$40.00 per day and \$20.00 per 1/2 day.

(3) If an action is removed from the circuit court to a lower court, the jury fee shall be paid to the circuit court whether paid before or after removal of the action to the lower court, and the circuit court shall be responsible for payment of the compensation to the juror involved.

(4) A clerk or deputy clerk of the court who fraudulently issues a certificate of attendance of a juror on which the juror receives pay, except as allowed by law, is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$500.00, or both.

MCLS § 600.1344 (2005)

### **Compensation of juror for attendance on inquest**

Sec. 2540. Each juror sworn before any medical examiner or judge, on an inquest taken by either of them on view of any dead body, is entitled to receive \$6.00 for each day's attendance and \$3.00 for each half day's attendance on the inquest, the accounts for the service to be allowed by the county board of commissioners in counties not having a board of county auditors, and in counties having a board of county auditors by the board, on the certificate of the medical examiner or judge.

MCLS § 600.2540 (2005)

## **5. Alternate Jurors**

### **Additional jurors; procedure.**

Sec. 1341. The chief judge of a court may order additional jurors selected by the board for service during the period of service of a jury panel or a part of a panel. A judge of a court of record may order additional jurors selected by the board for immediate service in a particular case. The order shall specify the number to be selected and the time and place of selection. If additional jurors are needed for immediate service in a particular case, any member of the jury board may conduct the selection if witnessed by the clerk or the clerk's deputy and by the judge ordering the selection. Jurors whose names are so selected shall be given notice to attend court in the manner that the court directs. Additional jurors so selected shall become members of the panel then serving unless otherwise directed by the chief judge.

MCLS § 600.1341 (2005)

## **6. Discussions pre-deliberation**

N/A

## **7. Deliberation**

N/A

## **8. Length of Service**

N/A

## **9. Length of Time Restrictions on Trials**

### **Applicability of §§ 600.1371 to 600.1376; adoption of 1 day, 1 trial jury system**

(1) Sections 1371 to 1376 apply only to those districts of the district court, circuits of the circuit court, and county or probate court districts of the probate court that adopt the 1 day, 1 trial jury system.

(2) Any court in this state may adopt a 1 day, 1 trial jury system.

MCLS § 600.1372 (2005)

### **"One day, one trial system" definition.**

Sec. 1371. As used in sections 1371 to 1376 "one day, one trial system" means a system of selection of jurors which incorporates either of the following:

(a) A system of jury selection whereby:

(i) Jury service is completed when the first trial to which the juror is sworn is concluded regardless of the length of the trial or the manner in which the case is disposed.

(ii) A juror who is challenged shall be returned to the jury pool and shall be subject to voir dire examination in other cases for the remainder of that day.

(iii) A juror who remains unseated and unchallenged at voir dire examination shall be excused at the end of that day. A juror may be held over for another day for continuation of voir dire examination at the discretion of the trial judge.

(b) A system of jury selection established pursuant to section 1301b.

MCLS § 600.1371 (2005)

## **10. Judge's Responses to Jury Questions**

N/A

## **11. Jury Size**

### **Trial by jury of 6 in civil cases; verdict**

In civil cases commenced in a court governed by this chapter, when a trial by jury is requested in accordance with rules of the supreme court, the trial shall be by a jury of 6. Except in cases involving the possible commitment of a person to a mental, correctional or training institution, a verdict in any civil case including condemnation and grade separation cases shall be

received when 5 jurors agree. In civil cases involving the possible commitment to a mental, correctional or training institution, the court shall receive only a unanimous verdict.  
MCLS § 600.1352 (2005)

## **12. Number of Jurors Needed to Return a Verdict**

### **Rendering Verdict.**

(A) Majority Verdict; Stipulations Regarding Number of Jurors and Verdict. The parties may stipulate in writing or on the record that

- (1) the jury will consist of any number less than 6,
- (2) a verdict or a finding of a stated majority of the jurors will be taken as the verdict or finding of the jury, or
- (3) if more than six jurors were impaneled, all of the jurors may deliberate. Except as provided in [MCR 5.512](#), in the absence of such stipulation, a verdict in a civil action tried by 6 jurors will be received when 5 jurors agree.

(B) Return; Poll.

- (1) The jury must return its verdict in open court.
- (2) A party may require a poll to be taken by the court asking each juror if it is his or her verdict.
- (3) If the number of jurors agreeing is less than required, the jury must be sent out for further deliberation; otherwise the verdict is complete, and the court shall discharge the jury.

(C) Discharge From Action; New Jury. The court may discharge a jury from the action:

- (1) because of an accident or calamity requiring it;
- (2) by consent of all the parties;
- (3) whenever an adjournment or mistrial is declared;
- (4) whenever the jurors have deliberated until it appears that they cannot agree. The court may order another jury to be drawn, and the same proceedings may be had before the new jury as might have been had before the jury discharged.

(D) Responsibility of Officers.

- (1) All court officers, including trial attorneys, must attend during the trial of an action until the verdict of the jury is announced.
- (2) A trial attorney may, on request, be released by the court from further attendance, or the attorney may designate an associate or other attorney to act for him or her during the deliberations of the jury.

MCR 2.512 (2005)

### **Trial by jury of 6 in civil cases; verdict**

In civil cases commenced in a court governed by this chapter, when a trial by jury is requested in accordance with rules of the supreme court, the trial shall be by a jury of 6. Except in cases involving the possible commitment of a person to a mental, correctional or training institution, a verdict in any

civil case including condemnation and grade separation cases shall be received when 5 jurors agree. In civil cases involving the possible commitment to a mental, correctional or training institution, the court shall receive only a unanimous verdict.

MCLS § 600.1352 (2005)

**13. Juror Admonition**

N/A

**14. Jury Nullification**

N/A

**15. The Use of Plain English**

N/A

**16. Absence of the Jury**

N/A

**17. Jury Instructions**

**Instructions to Jury.**

(A) Request for Instructions.

(1) At a time the court reasonably directs, the parties must file written requests that the court instruct the jury on the law as stated in the requests. In the absence of a direction from the court, a party may file a written request for jury instructions at or before the close of the evidence.

(2) In addition to requests for instructions submitted under subrule (A)(1), after the close of the evidence each party shall submit in writing to the court a statement of the issues and may submit the party's theory of the case as to each issue. The statement must be concise, be narrative in form, and set forth as issues only those disputed propositions of fact which are supported by the evidence. The theory may include those claims supported by the evidence or admitted.

(3) A copy of the requested instructions must be served on the adverse parties in accordance with [MCR 2.107](#).

(4) The court shall inform the attorneys of its proposed action on the requests before their arguments to the jury.

(5) The court need not give the statements of issues or theories of the case in the form submitted if the court presents to the jury the material substance of the issues and theories of each party.

(B) Instructing the Jury.

(1) After the jury is sworn and before evidence is taken, the court shall give such preliminary instructions regarding the duties of the jury, trial procedure, and the law applicable to the case as are reasonably necessary to enable the jury to understand the proceedings and the evidence. [MCR 2.516\(D\)\(2\)](#) does not apply to such preliminary instructions.

(2) At any time during the trial, the court may, with or without request, instruct the jury on a point of law if the instruction will materially aid the jury to understand the proceedings and arrive at a just verdict.

(3) Before or after arguments or at both times, as the court elects, the court shall instruct the jury on the applicable law, the issues presented by the case, and, if a party requests as provided in subrule (A)(2), that party's theory of the case. The court, at its discretion, may also comment on the evidence, the testimony, and the character of the witnesses, as the interests of justice require.

(4) While the jury is deliberating, the court may further instruct the jury in the presence of or after reasonable notice to the parties.

(5) Either on the request of a party or on the court's own motion, the court may provide the jury with

(a) a full set of written instructions,

(b) a full set of electronically recorded instructions, or

(c) a partial set of written or recorded instructions if the jury asks for clarification or restatement of a particular instruction or instructions or if the parties agree that a partial set may be provided and agree on the portions to be provided.

If it does so, the court must ensure that such instructions are made a part of the record.

(C) Objections. A party may assign as error the giving of or the failure to give an instruction only if the party objects on the record before the jury retires to consider the verdict (or, in the case of instructions given after deliberations have begun, before the jury resumes deliberations), stating specifically the matter to which the party objects and the grounds for the objection. Opportunity must be given to make the objection out of the hearing of the jury.

(D) Model Civil Jury Instructions.

(1) The Committee on Model Civil Jury Instructions appointed by the Supreme Court has the authority to adopt model civil jury instructions (M Civ JI) and to amend or repeal those instructions approved by the predecessor committee. Before adopting, amending, or repealing an instruction, the committee shall publish notice of the committee's intent, together with the text of the instruction to be adopted, or the amendment to be made, or a reference to the instruction to be repealed, in the manner provided in [MCR 1.201](#). The notice shall specify the time and manner for commenting on the proposal. The committee shall thereafter publish notice of its final action on the proposed change, including, if appropriate, the effective date of the adoption, amendment, or repeal. A model civil jury instruction does not have the force and effect of a court rule.

(2) Pertinent portions of the instructions approved by the Committee on Model Civil Jury Instructions or its predecessor committee must be given in each action in which jury instructions are given if

(a) they are applicable,

(b) they accurately state the applicable law, and

(c) they are requested by a party.

(3) Whenever the committee recommends that no instruction be given on a particular matter, the court shall not give an instruction unless it specifically finds for reasons stated on the record that

(a) the instruction is necessary to state the applicable law accurately, and

(b) the matter is not adequately covered by other pertinent model civil jury instructions.

(4) This subrule does not limit the power of the court to give additional instructions on applicable law not covered by the model instructions. Additional instructions when given must be patterned as nearly as practicable after the style of the model instructions, and must be concise, understandable, conversational, unslanted, and nonargumentative.

MCR 2.516 (2005)

**18. Child-Care for Jurors**

N/A

**19. Jury Room**

N/A

**20. Accommodation**

N/A

**21. Juror's Bill of Rights**

N/A

**22. Materials Permitted in Possession of the Jury**

N/A

**23. Various Rules**

N/A

**24. Various Recommendations**

N/A