

# IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

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## Missouri Jury Innovations

### 1. Note Taking

#### **Juror Note-Taking**

Upon the court's own motion or upon the request of any party, the court shall permit jurors to take notes. If jurors are permitted to take notes, the court shall supply each juror with suitable materials.

Jurors shall not take their notes out of the courtroom except to use their notes during deliberations.

The court shall collect all juror notes immediately before discharge of the jury.

After the jury is discharged, the court shall destroy the notes promptly without permitting their review by the court or any other person.

Juror notes shall not be used to impeach a verdict.

S.Ct. Rule 69.03 R.S.Mo. (2004)

### 2. Juror Handbooks/Notebooks

#### **Handbook of Information for Jurors**

NOTICE: FIRST OF TWO VERSIONS OF THIS SECTION  
Text of this version effective until July 1, 2004

For the purpose of instructing those summoned as jurors in trial courts on the general duties that they as jurors are obliged to perform, the court may, in its discretion, direct the sheriff to serve with each jury summons a copy of the Handbook of Information for Jurors as approved by The Missouri Bar, or the court may distribute the booklet to the jurors as they report for duty to the court, or it may orally instruct the jury in conformity with the contents of the approved booklet.

NOTICE: SECOND OF TWO VERSIONS OF THIS SECTION  
Text of this version effective July 1, 2004

The Missouri Bar may distribute its handbook entitled "Trial Jurors Information" to those summoned as jurors.

S.Ct. Rule 69.02 R.S.Mo. (2004)

### **3. Juror Questions and Questioning of Witnesses**

#### **Juror Questions**

NOTICE: Text of this section effective July 1, 2004

(a) Upon the court's own motion or upon motion of any party, the court may permit jurors to submit questions to witnesses. The Court shall resolve any such motion before the jury is impanelled.

(b) If the court permits jurors to submit questions:

(1) The court shall instruct the jurors:

(A) On the procedure to be followed for asking such questions; and

(B) That no adverse inference is to be drawn against any party if any juror question is not allowed:

(2) After all parties have completed examination of each witness, any juror may submit written, anonymous questions;

(3) All parties shall be given an opportunity outside the hearing of the jurors to object to the substance or the form of any question;

(4) The court may limit the number of questions;

(5) The court may revise any question's form and shall read the question to the witness or the parties may stipulate to the answer; and

(6) The court may allow any party to ask follow-up questions after consideration of the juror questions.

S.Ct. Rule 69.04 R.S.Mo. (2004)

### **4. Juror Pay/Compensation**

**Compensation of jurors, mileage -- additional compensation may be authorized, when**

1. Each county or city not within a county may elect to compensate its jurors pursuant to subsection 2 of this section except as otherwise provided in subsection 3 of this section.

2. Each grand and petit juror shall receive six dollars per day, for every day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage

allowance for jurors, which additional compensation shall be paid from the funds of the county or a city not within a county. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors may receive the additional compensation and mileage allowance authorized by this subsection only if the governing body of the county or the city not within a county authorizes the additional compensation. The provisions of this subsection authorizing additional compensation shall terminate upon the issuance of a mandate by the Missouri supreme court which results in the state of Missouri being obligated or required to pay any such additional compensation even if such additional compensation is formally approved or authorized by the governing body of a county or a city not within a county. Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to this subsection in the amount of at least six dollars per day in addition to the amount required by this subsection, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.

3. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand inhabitants, no grand or petit juror shall receive compensation for the first two days of service, but shall receive fifty dollars per day for the third day and each subsequent day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county.

4. When each panel of jurors summoned and attending court has completed its service, the board of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. Within thirty days of the submission of the statement of fees, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors.

§ 494.455 R.S.Mo. (2005)

## **5. Alternate Jurors**

### **Alternate jurors**

If in any case to be tried before a jury it appears to the court to be appropriate, the court may direct that a number of jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the principal jurors. Alternate jurors who do not replace principal jurors shall be discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law for each two alternate jurors to be impaneled. The additional peremptory challenge may be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against the alternates.

§ 494.485 R.S.Mo. (2005)

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

N/A

## **7. Deliberation**

N/A

## **8. Length of Service**

### **Petit jurors, maximum number of days required to serve, exception**

1. Except as otherwise provided in subsections 2 and 3, no petit juror shall be required to attend court for prospective jury service more than twenty days in any one-year period except as is necessary to complete service in a particular case.

2. Subsequent to January 1, 2005, in jurisdictions on the nonpartisan court plan, no petit juror shall be required to attend court for prospective jury service for more than two days pursuant to a jury summons unless selected to a panel of prospective jurors for jury service pursuant to subsection 2 of [section 494.420](#), or selected to serve as a petit juror in one particular case.

3. In jurisdictions on the nonpartisan court plan, no petit juror shall be required to serve as a juror for more than twenty days in any one-year period except as is necessary to complete service in a particular case.

§ 494.445 R.S.Mo. (2005)

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

N/A

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

**Number of jurors--three-fourths or more jurors to return verdict in civil cases--how verdict is signed**

In all trials of civil actions before a circuit judge, or an associate circuit judge sitting as a circuit judge, a jury shall consist of twelve persons selected pursuant to [sections 494.400](#) to 494.505, unless all parties agree on a lesser number, but not less than eight, in which case the number of veniremen shall be reduced accordingly. Three-fourths or more jurors may return a lawful verdict. All verdicts shall be signed by each juror who agrees to the verdict.

§ 494.490 R.S.Mo. (2005)

## **11. Jury Size**

**Number of jurors--three-fourths or more jurors to return verdict in civil cases--how verdict is signed**

In all trials of civil actions before a circuit judge, or an associate circuit judge sitting as a circuit judge, a jury shall consist of twelve persons selected pursuant to [sections 494.400](#) to 494.505, unless all parties agree on a lesser number, but not less than eight, in which case the number of veniremen shall be reduced accordingly. Three-fourths or more jurors may return a lawful verdict. All verdicts shall be signed by each juror who agrees to the verdict.

§ 494.490 R.S.Mo. (2005)

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

**Number of jurors--three-fourths or more jurors to return verdict in civil cases--how verdict is signed**

In all trials of civil actions before a circuit judge, or an associate circuit judge sitting as a circuit judge, a jury shall consist of twelve persons selected pursuant to [sections 494.400](#) to 494.505, unless all parties agree on a lesser number, but not less than eight, in which case the number of veniremen shall be reduced accordingly. Three-fourths or more jurors may return a lawful verdict. All verdicts shall be signed by each juror who agrees to the verdict.

§ 494.490 R.S.Mo. (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 Juries**

**(a) Requests for Instructions.** Any party may, and a party with the burden of proof on an issue shall, submit written requests for instructions on the law applicable to the issues. Requests shall be submitted prior to an instruction conference or at such time as the court directs. A party need not request a converse instruction until the court has indicated the verdict directing instruction expected to be given. The court may give instructions without requests of counsel. All instructions shall be submitted in writing and shall be given or refused by the court according to the law and the evidence in the case. Each instruction shall be submitted with an original and one copy for the court and one copy for each party. Each copy shall indicate whether it was prepared at the court's direction or by which party it was tendered and shall contain a notation as follows:

"MAI No. \_\_\_\_" or "MAI No. \_\_\_\_ modified" or "Not in MAI" as the case may be.

**(b) Form of Instructions.** Whenever Missouri Approved Instructions contains an instruction applicable in a particular case that the appropriate party requests or the court decides to submit, such instruction shall be given to the exclusion of any other instructions on the same subject. Where an MAI must be modified to fairly submit the issues in a particular case, or where there is no applicable MAI so that an instruction not in MAI must be given, then such modifications or such instructions shall be simple, brief, impartial, free from argument, and shall not submit to the jury or require findings of detailed evidentiary facts.

**(c) Violation of Rule--Effect.** The giving of an instruction in violation of the provisions of this Rule 70.02 shall constitute error, its prejudicial effect to be judicially determined, provided that objection has been timely made pursuant to Rule 70.03.

**(d) Converse Instruction--Effect of Requesting.** The request of a converse instruction shall not be deemed to waive any objection to the instruction conversed.

**(e) Instructions Conference and Record.** The court shall hold an instructions conference with counsel to determine the instructions to be given. The court shall inform counsel as to the instructions that are to be given prior to the time they are delivered to the jury. All instructions refused and all instructions given, including a record of who tendered them, shall be kept as a part of a record in the case. An opportunity shall be given for counsel to make objections on the record, out of the hearing of the jury, before the jury retires to deliberate.

**(f) Instructions--How and When Given.** After a jury has been sworn to try a case but before opening statements, the court shall read to the jury Missouri Approved Instructions 2.01, which shall be marked and given to the jury along with the other instructions at the close of the case but shall not be reread by the court. With agreement of all parties, the court may give such other preliminary instructions during the trial as will assist the jury in understanding its role or the issues in the case. Agreement is not required for cautionary or withdrawal instructions during the trial. Final instructions in the case, submitting the law applicable to the case, ordinarily should be given prior to final arguments. Instructions that are to be given shall be consecutively numbered and all shall be given as instructions of the court. Except where otherwise provided in Missouri Approved Instructions, they shall be given in such order as the court shall deem advisable. The final instructions on the law governing the case shall be read to the jury by the court and provided to the jury in writing.

S.Ct. Rule 70.02 R.S.Mo. (2004)

**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**

### **Postponement of jury duty, when**

1. Individuals scheduled to appear for jury service have the right to postpone the date of their initial appearance for jury service one time only for reasons other than undue influence or extreme physical or financial hardship. When requested, postponements shall be granted, provided that:

(1) The prospective juror has not previously been granted a postponement;

(2) The prospective juror appears in person or contacts the board of jury commissioners by telephone, electronic mail, or in writing to request a postponement; and

(3) Prior to the grant of a postponement with the concurrence of the board of jury commissioners, the prospective juror fixes a date certain on which he or she will appear for jury service that is not more than six months after the date on which the prospective juror originally was called to serve and on which date the court will be in session. A prospective juror who is a full-time student of any accredited institution may fix a date certain on which he or she will appear for jury service that is not more than twelve months after the date on which the prospective juror originally was called to serve and on which the court will be in session.

2. A subsequent request to postpone jury service may be approved by a judicial officer only in the event of an extreme emergency, such as a death in the family, sudden grave illness, or a natural disaster or national emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Prior to the grant of a second postponement, the prospective juror must fix a date certain on which the individual will appear for jury service within six months of the postponement on a date when the court will be in session.

§ 494.432 R.S.Mo. (2005)

### **Jury may separate, when--duty of court**

The court may permit the jury to separate at any adjournment or recess of the court during the trial and jury deliberation in all cases of misdemeanor or felony, except in capital cases. When the jurors are permitted to separate, after being impaneled as provided for in [sections 494.400](#) to [494.505](#), and at each adjournment the court shall admonish them that it is their duty not to converse among themselves, nor to suffer others to converse with them or in their hearing on any subject connected with the trial, or to form or express any opinion thereon, until the cause is finally

submitted to them, or until they return to the jury room to continue their deliberations.  
§ 494.495 R.S.Mo. (2005)

**24. Various Recommendations**  
N/A