

# IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

## Montana 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

#### **Fees in courts of record.**

(1) A grand or trial jury panel member shall receive \$ 12 per day for attendance before any court of record and a mileage allowance, as provided in 2-18-503, for traveling each way between his residence and the county seat. Those jurors selected from the panel for a case shall receive an additional \$ 13 a day while serving.

(2) A juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice or who has been summoned as a special juror and not sworn in the trial of the case shall forfeit per diem and mileage.

MCA § 3-15-201 (2004)

#### **Fees in courts not of record and coroner inquests**

(1) A jury panel member in civil actions, criminal actions, and coroner inquests is entitled to a fee of \$ 12 per day for attendance before a court not of record and a mileage allowance, as provided in [2-18-503](#), for traveling each way between his residence and the court. A jury panel member selected for a case is entitled to an additional \$ 13 per day while serving.

(2) In civil actions, the jurors' fees must be paid by the party demanding the jury and taxed as costs against the losing party.

(3) A juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice or who has been summoned as a special juror and not sworn in the trial of the case shall forfeit per diem and mileage.

MCA § 3-15-203 (2004)

## **5. Alternate Jurors**

### **Alternate jurors**

The court may direct that one or two jurors in addition to the regular panel 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 arrives at its verdict, become unable or disqualified to perform their duties. An alternate juror shall not join the jury in its deliberation unless called upon by the court to replace a member of the jury. The alternate juror's conduct during the period in which the jury is considering its verdict shall be regulated by instructions of the trial court. Alternate jurors shall be drawn 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. An alternate juror who does not replace a principal juror shall be discharged after the jury arrives at its verdict. If one or two alternate jurors are called each party is entitled to one peremptory challenge in addition to those otherwise allowed by subdivision (b) of this rule. The additional peremptory challenge may be used only against an alternate juror, and the other peremptory challenges allowed by law shall not be used against the alternates.

Mont. Code Anno., Ch. 20, Rule 47(c) (2004)

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

### **Admonition when jury permitted to separate.**

If the jurors are permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with or suffer themselves to be addressed by any other person on any subject of the trial and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them.

MCA § 25-7-402 (2004)

## **7. Deliberation**

### **Conduct of jury after case submitted to it.**

When the case is finally submitted to the jury, it may decide in court or retire for deliberation. If the jurors retire, they must be kept together in some convenient place, under charge of an officer, until at least two-thirds of them agree upon a verdict or are discharged by the court. Unless by order of the court, the officer having them under his charge must not suffer any communication to be made to them or make any himself, except to ask them if they or two-thirds of them are agreed upon a verdict; and he must not, before their verdict is rendered, communicate to any person the state of their deliberations or the verdict agreed upon.

MCA § 25-7-403 (2004)

**Papers which may be taken into jury room.**

Upon retiring for deliberation, the jurors may take with them all papers which have been received as evidence in the cause except depositions or copies of such papers as ought not, in the opinion of the court, to be taken from the person having them in possession. They may also take with them notes of the testimony or other proceedings on the trial taken by themselves or any of them but none taken by any other person.

MCA § 25-7-404 (2004)

**Jury's request for further information**

After the jury has retired for deliberation, if there be a disagreement among the jurors as to any part of the testimony or if they desire to be informed of any point of law arising in the cause, they may require the officer to conduct them into court. Upon their being brought into court, the information required must be given in the presence of or after notice to the parties or counsel. Such information must be given in writing or taken down by the stenographer.

MCA § 25-7-405 (2004)

**8. Length of Service**

N/A

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

N/A

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

N/A

**11. Jury Size**

**Number of a trial jury**

(1) A trial jury consists of 12 persons or, with the approval of the court, it may consist of any number less than 12 upon which the parties agree in open court.

(2) In all civil actions where the relief asked for in the complaint is under the sum of \$ 10,000, a trial jury may, in the discretion of the trial judge, consist of six persons and two-thirds of the jury may render a verdict.

MCA § 3-15-106 (2004)

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

N/A

### **13. Juror Admonition**

#### **Admonition when jury permitted to separate.**

If the jurors are permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that it is their duty not to converse with or suffer themselves to be addressed by any other person on any subject of the trial and that it is their duty not to form or express an opinion thereon until the case is finally submitted to them.

MCA § 25-7-402 (2004)

### **14. Jury Nullification**

N/A

### **15. The Use of Plain English**

N/A

### **16. Absence of the Jury**

#### **Activity of court during jury's absence.**

While the jury is absent, the court may adjourn from time to time in respect to other business, but it is nevertheless open for every purpose connected with the case submitted to the jury until a verdict is rendered or the jury discharged. The court may direct the jury to bring in a sealed verdict at the opening of the court in case of an agreement during a recess or adjournment for the day.

MCA § 25-7-303 (2004)

### **17. Jury Instructions**

#### **Instructions to jury -- objection**

The court may, during the trial or at the close of the evidence, request each of the parties to submit proposed written instructions on the law of the case. No party may assign as error the failure to instruct on any point of law unless that party offers an instruction thereon. The court shall rule upon the proposed instructions and may prepare other written instructions to be given of its own motion and shall submit to the parties the instructions that will be given and provide opportunity to make objections. Objections made shall specify and state the particular grounds on which the instruction is objected to and it shall not be sufficient in stating the ground of such objection to state generally the instruction does not state the law or is against the law, but such ground of objection shall specify particularly wherein the instruction is insufficient or does not state the law, or what particular clause therein is objected to. All objections and rulings thereon shall be made out of the presence of the jury. No exceptions are necessary to the rulings of the court on the giving or the refusal of instructions. The court shall read to the jury the instructions given before the arguments of counsel are commenced.

Mont. Code Anno., Ch. 20, Rule 51 (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**

**Papers which may be taken into jury room.**

Upon retiring for deliberation, the jurors may take with them all papers which have been received as evidence in the cause except depositions or copies of such papers as ought not, in the opinion of the court, to be taken from the person having them in possession. They may also take with them notes of the testimony or other proceedings on the trial taken by themselves or any of them but none taken by any other person.

MCA § 25-7-404 (2004)

**23. Various Rules**

N/A

**24. Various Recommendations**

N/A