

IADC NATIONAL JURY TRIAL INNOVATIONS PROJECT

Updated 08.08.2005

Wisconsin Jury Trial Innovations

1. Note Taking

Preliminary Instructions and Note Taking

(2)(a) After the trial jury is sworn, the court shall determine if the jurors may take notes of the proceedings:

1. If the court authorizes note-taking, the court shall instruct the jurors that they may make written notes of the proceedings, except the opening statements and closing arguments, if they so desire and that the court will provide materials for that purpose if they so request. The court shall stress the confidentiality of the notes to the jurors. The jurors may refer to their notes during the proceedings and deliberation. The notes may not be the basis for or the object of any motion by any party. After the jury has rendered its verdict, the court shall ensure that the notes are promptly collected and destroyed.

2. If the court does not authorize note-taking, the court shall state the reasons for the determination on the record.

(2)(b) The court may give additional preliminary instructions to assist the jury in understanding its duty and the evidence it will hear. The preliminary instructions may include, without limitation, a description of the nature of the case, what constitutes evidence and what does not, guidance regarding the burden of proof and the credibility of witnesses, and directions not to discuss the case until deliberations begin. Any such preliminary jury instructions may be given again in the charge at the close of the evidence. The additional preliminary instructions shall be disclosed to the parties before they are given and either party may object to any specific instruction or propose instructions of its own to be given prior to trial.

Wis. Stat. § 805.13(2)

2. Juror Handbooks/Notebooks

N/A

3. Juror Questions and Questioning of Witnesses

N/A

4. Juror Pay/Compensation

Juror fees and mileage

(1) Every grand and petit juror summoned shall receive an amount, not less than 16, as fixed by the county board, for each day of attendance, and an amount equal to the mileage rate set under [s. 20.916 \(8\)](#) for each mile traveled each day in going and returning by the most usual route. A juror may not be paid for a day when the court is not in session unless payment is ordered by the court.

(2) The county board may pay jurors by the half-day. The payment shall be for 50% of the established daily pay under sub. (1) and may not affect the payment for mileage.

(3) Notwithstanding subs. (1) and (2) , if the judges in any circuit have established a system under [s. 756.28](#) in which jurors are summoned to serve for only one day or one trial, the county board may determine the amount to be paid jurors for the first day of attendance and the amount to be paid jurors for traveling to and from the court for the first day of attendance.

(4) When a juror has completed his or her service, the clerk of circuit court shall promptly initiate the procedure for payment of the jurors fees and mileage under [s. 59.64 \(1\) \(g\)](#) 1. Judicial Council Note, 1996: Based on prior ss. 756.24 and [756.25](#), this section implements ABA Standard 15. The payment procedure applies regardless of whether the juror was selected under [s. 756.07](#) or under [s. 756.08](#). Prior s. 756.26 is repealed as unnecessary. [Re SCO No. 96-08 eff. 7-1-97]

Wis. Stat. § 756.25 (2004)

Every juror summoned is paid an amount set by the county board (not less than \$16 per day) for each day of attendance and reimbursed for travel. In some counties jurors may be paid by the half-day.

<http://www.courts.state.wi.us/services/juror/index.htm>

5. Alternate Jurors

N/A

6. Discussions pre-deliberation

N/A

7. Deliberation

N/A

8. Length of Service

Length of juror service; periods of required availability.

One day or one trial. The judges in any circuit may establish a system in which a person summoned under [s. 756.05](#) may not be required to serve or attend court for prospective service as a petit juror for more than one day in a specified period, unless more days are necessary to complete service in a particular case. The specified period may not be less than 2 nor more than 4 years. In circuits where judges have established such a system, a petit juror whose deliberation ends with a verdict may not be required to participate in a 2nd trial even though the juror may not have completed the first day of juror service at the time of commencement of the 2nd trial.

Wis. Stat. § 756.28(1)

Length of juror service; periods of required availability

General 4-year eligibility. In a county where a system has not been established under sub. (1) , a person may be required to be available for service as a grand or petit juror only once in any 4-year period. The period for which any person may be required to be available for service may not exceed 31 consecutive days. No person may be required to serve, or attend court for prospective service, as a juror for a total of more than 5 days unless more days are necessary to complete service in a particular case. Judicial Council Note, 1996: Based on prior [s. 756.28](#), this section implements ABA Standard 5. Subsection (1) is revised to allow greater flexibility than prior statutes with respect to the length of the period during which a juror who has served for one day/one trial cannot be summoned again. The amendment to sub. (2) is identical to a Supreme Court rulemaking petition heard October 11, 1995. The Judicial Council Note to the proposal reads as follows: Subsection (2) is revised, effective January 1, 1997, to specify that a person may only be required to be available for jury service once in any 4-year period. The maximum term of jury availability is reduced to 31 consecutive days, and the maximum number of days of actual court attendance is limited to five, unless more are necessary to complete a particular trial. This change is intended to implement the recommendations of the American Bar Association that such periods be as short as possible, consistent with the needs of justice. [Re SCO No. 96-08 eff. 7-1-96]

Wis. Stat. § 756.28(2)

9. Length of Time Restrictions on Trials

N/A

10. Judge's Responses to Jury Questions

N/A

11. Jury Size

Jury Selection

(1) Whenever an issue is to be tried before a jury, the clerk of circuit court shall randomly select names from the prospective juror list until the desired number is obtained.

(2)

(a) A jury in a felony case shall consist of 12 persons unless both parties agree on a lesser number as provided in [s. 972.02](#)

(am) A jury in a misdemeanor case shall consist of 6 persons.

(b) Except as provided in par. (c) , a jury in a civil case shall consist of 6 persons unless a party requests a greater number, not to exceed 12. The court, on its own motion, may require a greater number, not to exceed 12.

(c) A jury in a case involving an offense for which a forfeiture may be imposed or in an inquest under [s. 979.05](#) shall consist of 6 persons.

(d) This subsection does not apply to cases under ch. 938
Judicial Council Note, 1996: Based on prior s. 756.096, this section implements ABA Standard 17. [Re SCO No. 96-08 eff. 7-1-97

Wis. Stat. § 756.06 (2004)

12. Number of Jurors Needed to Return a Verdict

Juries of fewer than 12; five-sixths verdict

(1) JURY.

The jury shall consist of a number of persons determined under [s. 756.06](#)

[\(2\) \(b\)](#)

(2) VERDICT.

A verdict agreed to by five-sixths of the jurors shall be the verdict of the jury. If more than one question must be answered to arrive at a verdict on the same claim, the same five-sixths of the jurors must agree on all the questions.

Wis. Stat. § 805.09 (2004)

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

Instruction and Verdict Conference

At the close of the evidence and before arguments to the jury, the court shall conduct a conference with counsel outside the presence of the jury. At the conference, or at such earlier time as the court reasonably directs, counsel may file written motions that the court instruct the jury on the law, and submit verdict questions, as set forth in the motions. The court shall inform counsel on the record of its proposed action on the motions and of the instructions and verdict it proposes to submit. Counsel may object to the proposed instructions or verdict on the grounds of incompleteness or other error, stating the grounds for objection with particularity on the record. Failure to object at the conference constitutes a waiver of any error in the proposed instructions or verdict.

Wis. Stat. § 805.13(3) (2004)

Instruction

The court shall instruct the jury before or after closing arguments of counsel. Failure to object to a material variance or omission between the instructions given and the instructions proposed does not constitute a waiver of error. The court shall provide the jury with one complete set of written instructions providing the burden of proof and the substantive law to be applied to the case to be decided.

Wis. Stat. § 805.13(4)(2004)

Reinstruction

After the jury retires, the court may reinstruct the jury as to all or any part of the instructions previously given, or may give supplementary instructions as it deems appropriate. Judicial Council Note, 1986: Sub. (2) (b) is amended to provide that preliminary instructions may include a description of the nature of the case, what constitutes evidence and what does not, guidance regarding the burden of proof and the credibility of witnesses, and directions not to discuss the case until deliberations begin

Wis. Stat. § 805.13(5) (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

Jury View

On motion of any party, the jury may be taken to view any property, matter or thing relating to the controversy between the parties when it appears to the court that the view is necessary to a just decision. The moving party shall pay the expenses of the view. The expenses shall afterwards be taxed like other legal costs if the party who incurred them prevails in the action. Judicial Council Note, 1983: Sub. (2) is amended by replacing the concept of "alternate" jurors with a provision allowing the court to order the impaneling of additional jurors. The panel is then reduced to the proper size by lot immediately prior to final submission of the cause. These changes are intended to promote an attentive attitude and a collegial relationship among the members of the jury. Judicial Council Note, 1996:#0103 This proposal changes "impaneled" to "selected" whenever a statute refers to choosing jurors or prospective jurors, for statutory uniformity. Adding the last sentence [to (2)] is intended to allow courts to keep additional jurors to replace any juror who might not be able to complete deliberations. Deliberations would begin anew with the additional juror in place [Re SCO No. 96-08 eff. 7-1-97]

Wis. Stat. § 805.08(4) (2004)

24. Various Recommendations

N/A