

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-94
HOUSE BILL 522

**AN ACT TO MODIFY THE PROVISIONS REGULATING THE SERVICE AND RELEASE
OF ALTERNATE JURORS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1215(a) reads as rewritten:

"(a) The judge may permit the seating of one or more alternate jurors. Alternate jurors must be sworn and seated near the jury with equal opportunity to see and hear the proceedings. They must attend the trial at all times with the jury, and obey all orders and admonitions of the judge. When the jurors are ordered kept together, the alternate jurors must be kept with them. The court should ensure that the alternate jurors do not discuss the case with anyone until that alternate replaces a juror or is discharged. If before final submission of the case to the jury, at any time prior to a verdict being rendered, any juror dies, becomes incapacitated or disqualified, or is discharged for any other reason, an alternate juror becomes a juror, in the order in which selected, and serves in all respects as those selected on the regular trial panel. If an alternate juror replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew. In no event shall more than 12 jurors participate in the jury's deliberations. Alternate jurors receive the same compensation as other jurors and, unless they become jurors, must be discharged upon the final submission of the case to the jury in the same manner and at the same time as the original jury."

SECTION 2. G.S. 15A-1221(a) reads as rewritten:

"(a) The order of a jury trial, in general, is as follows:

...

(10) The jury must retire to deliberate, and alternate jurors who have not been seated must be excused as provided in G.S. 15A-1215.

SECTION 3. G.S. 15A-1340.16(a1) reads as rewritten:

"(a1) Jury to Determine Aggravating Factors; Jury Procedure if Trial Bifurcated. – The defendant may admit to the existence of an aggravating factor, and the factor so admitted shall be treated as though it were found by a jury pursuant to the procedures in this subsection. Admissions of the existence of an aggravating factor must be consistent with the provisions of G.S. 15A-1022.1. If the defendant does not so admit, only a jury may determine if an aggravating factor is present in an offense. The jury impaneled for the trial of the felony may, in the same trial, also determine if one or more aggravating factors is present, unless the court determines that the interests of justice require that a separate sentencing proceeding be used to make that determination. If the court determines that a separate proceeding is required, the proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. If prior to the time that the trial jury begins its deliberations on the issue of at any time prior to rendering a decision to the court regarding whether one or more aggravating factors exist, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which the juror was selected. If an alternate juror replaces a juror after deliberations have begun, the court



must instruct the jury to begin its deliberations anew. In no event shall more than 12 jurors participate in the jury's deliberations. If the trial jury is unable to reconvene for a hearing on the issue of whether one or more aggravating factors exist after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue. A jury selected to determine whether one or more aggravating factors exist shall be selected in the same manner as juries are selected for the trial of criminal cases."

SECTION 4. G.S. 20-179(a1)(3) reads as rewritten:

"(3) Convening the jury. – If prior to the time that the trial jury begins its deliberations on the issue of at any time prior to rendering a decision to the court regarding whether one or more aggravating factors exist, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which the juror was selected. If an alternate juror replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew. In no event shall more than 12 jurors participate in the jury's deliberations. If the trial jury is unable to reconvene for a hearing on the issue of whether one or more aggravating factors exist after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue."

SECTION 5. This act becomes effective October 1, 2021, and applies to jurors and alternate jurors selected on or after that date.

In the General Assembly read three times and ratified this the 19th day of July, 2021.

s/ Deanna Ballard
Presiding Officer of the Senate

s/ Harry Warren
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:04 p.m. this 22nd day of July, 2021