

Article 62.

Mistrial.

§ 15A-1061. Mistrial for prejudice to defendant.

Upon motion of a defendant or with his concurrence the judge may declare a mistrial at any time during the trial. The judge must declare a mistrial upon the defendant's motion if there occurs during the trial an error or legal defect in the proceedings, or conduct inside or outside the courtroom, resulting in substantial and irreparable prejudice to the defendant's case. If there are two or more defendants, the mistrial may not be declared as to a defendant who does not make or join in the motion. (1977, c. 711, s. 1.)

§ 15A-1062. Mistrial for prejudice to the State.

Upon motion of the State, the judge may declare a mistrial if there occurs during the trial, either inside or outside the courtroom, misconduct resulting in substantial and irreparable prejudice to the State's case and the misconduct was by a juror or the defendant, his lawyer, or someone acting at the behest of the defendant or his lawyer. If there are two or more defendants, the mistrial may not be declared as to a defendant who does not join in the motion of the State if:

- (1) Neither he, his lawyer, nor a person acting at his or his lawyer's behest participated in the misconduct; or
- (2) The State's case is not substantially and irreparably prejudiced as to him. (1977, c. 711, s. 1.)

§ 15A-1063. Mistrial for impossibility of proceeding.

Upon motion of a party or upon his own motion, a judge may declare a mistrial if:

- (1) It is impossible for the trial to proceed in conformity with law; or
- (2) It appears there is no reasonable probability of the jury's agreement upon a verdict. (1977, c. 711, s. 1.)

§ 15A-1064. Mistrial; finding of facts required.

Before granting a mistrial, the judge must make finding of facts with respect to the grounds for the mistrial and insert the findings in the record of the case. (1977, c. 711, s. 1.)

§ 15A-1065. Procedure following mistrial.

When a mistrial is ordered, the judge must direct that the case be retained for trial or such other proceedings as may be proper. (1977, c. 711, s. 1.)

§§ 15A-1066 through 15A-1070. Reserved for future codification purposes.