

Regular Session, 2010

SENATE BILL NO. 233

BY SENATOR HEITMEIER

CRIMINAL PROCEDURE. Provides for the scope of argument and charges by the court in certain criminal proceedings. (8/15/10)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Arts. 774 and 806, relative to jury trials;  
3 to provide for the closing arguments and charges to a jury prior to deliberations; and  
4 to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Arts. 774 and 806 are hereby amended and  
7 reenacted to read as follows:

8 Art. 774. Argument; scope

9 The argument shall be confined to evidence admitted, to the lack of evidence,  
10 to conclusions of fact that the state or defendant may draw therefrom, and to the law  
11 applicable to the case.

12 The argument shall not appeal to prejudice. **Except in prosecutions for**  
13 **offenses punishable by death or life imprisonment, the argument shall not touch**  
14 **upon the subject of penalty or punishment.**

15 The state's rebuttal shall be confined to answering the argument of the  
16 defendant.

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1 Art. 806. Prohibited charges

2 The court shall not charge the jury concerning the facts of the case and shall  
3 not comment upon the facts of the case, either by commenting upon or recapitulating  
4 the evidence, repeating the testimony of any witness, or giving an opinion as to what  
5 has been proved, not proved, or refuted. **Except in prosecutions for offenses**  
6 **punishable by death or life imprisonment, the court shall not charge the jury**  
7 **concerning the subject of penalty or punishment.**

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Thomas L. Tyler.

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#### DIGEST

Heitmeier (SB 233)

Present law prohibits arguments in a jury from appealing to prejudice. Proposed law retains this provision but also provides that except in prosecutions for offenses punishable by death or life imprisonment, the argument will not touch upon the subject of penalty or punishment.

Present law provides that a court will not charge the jury concerning the facts of a case and is prohibited from commenting upon the facts, either by commenting upon or recapitulating the evidence, repeating the testimony of any witness, or giving an opinion as to what has been proved, not proved, or refuted.

Proposed law retains these provisions in present law and provides that, except in prosecutions for offenses punishable by death or life imprisonment, a court is prohibited from charging the jury concerning the subject of penalty or punishment.

Effective August 15, 2010.

(Amends C. Cr. P. Arts. 774 and 806)