

2018 Regular Session

HOUSE BILL NO. 699

BY REPRESENTATIVE STAGNI

CRIMINAL/JURY TRIALS: Provides relative to jury polling after a verdict is returned

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 812, relative to verdicts; to
3 provide relative to jury verdicts; to provide relative to the polling of the jury after a
4 verdict is returned; to provide relative to the requirements for conducting a written
5 poll of the jury; to provide for the placement of the polling slips under seal; to
6 remove the authority of the court to conduct an oral poll of the jury after a verdict is
7 rendered; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 812 is hereby amended and reenacted
10 to read as follows:

11 Art. 812. Same; polling and disposition of jury

12 A. The court shall order the clerk to poll the jury if requested by the state or
13 the defendant. ~~It shall be within the discretion of the court whether such~~ The poll
14 shall be conducted ~~orally or~~ in writing by applying the procedures of ~~Paragraph (1)~~
15 ~~or Paragraph (2)~~ of this Article.

16 ~~(2)~~B.(1) The procedure for the written polling of the jury shall require that
17 the clerk hand to each juror a separate piece of paper containing the name of the juror
18 and the words "Is this your verdict?" Each juror shall write on the slip of paper the
19 words "Yes" or "No" along with his signature. The clerk shall collect the slips of

1 paper, make them available for inspection by the court and counsel, and record the
2 results.

3 (2) If a sufficient number of jurors as required by law to reach a verdict
4 answer "yes" the clerk shall so inform the court. Upon verification of the results, the
5 court shall order the clerk to record the verdict and order the jury discharged. If an
6 insufficient number required to find a verdict answer "Yes," the court may remand
7 the jury for further deliberation, or the court may declare a mistrial in accordance
8 with Article 775. The polling slips may be placed under seal upon order of the court,
9 which shall state the specific reasons for placing the polling slips under seal. If so
10 ordered the polling slips shall not be released to the public without a subsequent
11 order of the court authorizing their release.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 699 Reengrossed

2018 Regular Session

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Abstract: Removes the court's authority to conduct an oral poll of the jury after a verdict is rendered, and authorizes the court to place under seal the slip of paper used for conducting a written poll.

Present law authorizes the court, if requested by the state or the defendant, to poll the jury after returning its verdict.

Present law provides for a procedure by which the jury may be polled orally or in writing. Oral polling of the jurors consists of the clerk's calling each juror by name, announcing to each juror the verdict returned, and asking each juror "Is this your verdict?". Under the written polling procedure, present law requires the clerk to hand to each juror a separate piece of paper containing the name of the juror and the words "Is this your verdict?", upon which the juror shall write the word "Yes" or "No" and his signature.

Present law provides that if, upon polling all of the jurors, the number of jurors required by law to find a verdict answer "Yes," the court shall order the clerk to record the verdict and the jury shall be discharged. However, if, upon polling all of the jurors, the number required to find a verdict do not answer "Yes," the jury may be remanded for further deliberation, or the court may declare a mistrial in accordance with present law.

Proposed law removes the authority of the court to conduct an oral poll of the jury after a verdict is rendered.

With respect to the conducting of a written poll of the jury after a verdict is rendered, proposed law retains present law but provides that the polling slips used to conduct the poll may be placed under seal upon order of the court. Further provides that the slips shall not be released to the public without a subsequent order of the court authorizing their release.

(Amends C.Cr.P. Art. 812)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Amend proposed law relative to the conducting of a written poll of the jury to retain the present law requirement that a slip of paper contain the name of the juror and the juror's signature, but provides that such slip of paper shall be placed under seal in the court record and not be released except upon order of the court.

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove the authority of the court to conduct an oral poll of the jury after a verdict is rendered.
2. Restore present law relative to the conducting of a written poll of the jury after a verdict is rendered.
3. Amend proposed law to authorize, instead of require, the placement of the polling slips under seal, and to require the court to state specific reasons for placing the polling slips under seal.