

Rule 3.370. Regulation and Separation of Jurors

(a) During Trial. After the jurors have been sworn they shall hear the case as a body and, within the discretion of the trial judge, may be sequestered. In capital cases, absent a showing of prejudice, the trial court may order that between the guilt and penalty phases of the trial the jurors may separate for a definite time to be fixed by the court and then reconvene before the beginning of the penalty phase.

(b) After Submission of Cause. Unless the jurors have been kept together during the trial the court may, after the final submission of the cause, order that the jurors may separate for a definite time to be fixed by the court and then reconvene in the courtroom before retiring for consideration of their verdict.

(c) During Deliberations. Absent exceptional circumstances of emergency, accident, or other special necessity or unless sequestration is waived by the state and the defendant, in all capital cases in which the death penalty is sought by the state, once the jurors have retired for consideration of their verdict, they must be sequestered until such time as they have reached a verdict or have otherwise been discharged by the court. In all other cases, the court, in its discretion, either on the motion of counsel or on the court's initiative, may order that the jurors be permitted to separate. If jurors are allowed to separate, the trial judge shall give appropriate cautionary instructions.