

BY REP. TAYLOR BY REQUEST

1 IN THE HOUSE

2

HOUSE BILL NO. 531

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to jurors in criminal actions, and  
7 to the oath taken by jurors; and amending Rule 24 of  
8 the Alaska Rules of Criminal Procedure."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 12.45 is amended by adding a new section to read:

11 Sec. 12.45.015. SCOPE OF TRIAL JURY'S DETERMINATION. (a) The  
12 trial jury shall judge both the law and the facts pertaining to the  
13 case that is tried before it. The court shall advise the jury of its  
14 duty under this subsection.

15 (b) In subscribing the oath, each juror shall affirm that the  
16 juror understands the duty imposed by (a) of this section.

17 (c) A party to the trial may not be prevented from encouraging  
18 jurors to exercise the duty imposed by (a) of this section.

19 (d) The failure of the trial court to advise jurors as required  
20 by (a) of this section is not harmless error and is grounds for decla-  
21 ration of a mistrial.

22 (e) A potential juror may not be disqualified from serving on a  
23 jury because the juror expresses willingness to judge the law and its  
24 application, or to vote according to the juror's conscience.

25 \* Sec. 2. Rule 24(f), Alaska Rules of Criminal Procedure, is repealed  
26 and reenacted to read:

27 (f) CHARGE TO JURORS. The court shall, immediately before the  
28 jury is sworn and again before jury deliberation begins, advise the  
29 jurors:

1 "As jurors, your first responsibility is to decide  
2 whether the defendant has broken the law. If you  
3 decide that the defendant has, but that you cannot  
4 in good conscience support a guilty verdict, you  
5 are not required to do so. To reach a verdict  
6 that you believe is just, each of you has the  
7 right to consider to what extent the defendant's  
8 actions have actually caused harm or otherwise  
9 violated your sense of right and wrong. If you  
10 believe justice requires it, you may also judge  
11 both the merits of the law under which the de-  
12 fendant has been charged and the wisdom of apply-  
13 ing that law to the defendant. Accordingly, for  
14 each charge against the defendant, if review of  
15 the evidence under the law would result in a  
16 guilty verdict, nevertheless, you have the right  
17 to find the defendant innocent. The court cau-  
18 tions that with the exercise of this right comes  
19 full moral responsibility for the verdict you  
20 deliver."

21 \* Sec. 3. Rule 24, Alaska Rules of Criminal Procedure, is amended by  
22 adding a new subsection to read:

23 (g) OATH OF JURORS. The jury shall be sworn by the clerk sub-  
24 stantially as follows:

25 "You and each of you do solemnly swear (or  
26 affirm) that you will well and truly try the  
27 issues in the matter now before the court in  
28 accordance with the instructions of the court and  
29 the court's explanation of your responsibilities

1 as jurors to determine the law and the facts  
2 pertaining to the case; so help you God."

3 \* Sec. 4. APPLICABILITY. The provisions of this Act apply to trial  
4 juries in criminal judicial proceedings commenced on or after the effective  
5 date of this Act.

6 \* Sec. 5. Section 2 of this Act takes effect only if sec. 2 receives  
7 the two-thirds majority vote of each house required by art. IV, sec. 15,  
8 Constitution of the State of Alaska. Section 3 of this Act takes effect  
9 only if sec. 3 receives the two-thirds majority of each house required by  
10 art. IV, sec. 15, Constitution of the State of Alaska.