

CHAPTER.....

AN ACT relating to criminal procedure; revising the procedure for giving instructions to the jury; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a judge to charge the jury and governs the giving of certain instructions when cases are tried by a jury. Existing law also authorizes either party to present to the court any written charge and request that it be given to the jury. The court is then required to give such a charge if it thinks the charge is correct and pertinent. (NRS 175.161) This bill instead requires such a charge to be given if the court believes that the charge is both pertinent and an accurate statement of the law, regardless of whether the charge has been adopted as a model jury instruction.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections 1-8. (Deleted by amendment.)

Sec. 9. NRS 175.161 is hereby amended to read as follows:

175.161 1. Upon the close of the argument, the judge shall charge the jury. The judge may state the testimony and declare the law, but may not charge the jury in respect to matters of fact. The charge must be reduced to writing before it is given, and no charge or instructions may be given to the jury otherwise than in writing, unless by the mutual consent of the parties. If either party requests it, the court must settle and give the instructions to the jury before the argument begins, but this does not prevent the giving of further instructions which may become necessary by reason of the argument.

2. In charging the jury, the judge shall state to them all such matters of law the judge thinks necessary for their information in giving their verdict.

3. Either party may present to the court any written charge, and request that it be given. If the court ~~thinks it correct and~~ *believes that the charge is* pertinent ~~and~~ *and an accurate statement of the law, whether or not the charge has been adopted as a model jury instruction,* it must be given. ~~if not,~~ *If the court believes that the charge is not pertinent or not an accurate statement of law, then* it must be refused.

4. An original and one copy of each instruction requested by any party must be tendered to the court. The copies must be



numbered and indicate who tendered them. Copies of instructions given on the court's own motion or modified by the court must be so identified. When requested instructions are refused, the judge shall write on the margin of the original the word "refused" and initial or sign the notation. The instructions given to the jury must be firmly bound together and the judge shall write the word "given" at the conclusion thereof and sign the last of the instructions to signify that all have been given. After the instructions are given, the judge may not clarify, modify or in any manner explain them to the jury except in writing unless the parties agree to oral instructions.

5. After the jury has reached a verdict and been discharged, the originals of all instructions, whether given, modified or refused, must be preserved by the clerk as part of the proceedings.

6. Conferences with counsel to settle instructions must be held out of the presence of the jury and may be held in chambers at the option of the court.

7. When the offense charged carries a possible penalty of life without possibility of parole a charge to the jury that such penalty does not exclude executive clemency is a correct and pertinent charge, and must be given upon the request of either party.

Sec. 10. This act becomes effective on July 1, 2017.

