

SECOND REGULAR SESSION

SENATE BILL NO. 541

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4102S.01I

AN ACT

To amend supreme court rule 29.11 relating to the timing of motions for new criminal trials.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Missouri supreme court rule 29.11, is amended, to read as follows:

(a) Granting a New Trial. The court may grant a new trial upon good cause shown. A new trial may be granted to all or any of the defendants.

(b) Time for Filing Motion. A motion **by a defendant** for a new trial or a motion authorized by Rule 27.07(c) shall be filed within fifteen days after the return of the verdict. On application of the defendant made within fifteen days after the return of the verdict and for good cause shown the court may extend the time for filing of such motions for one additional period not to exceed ten days. **A motion by a prosecuting attorney for a new trial may be filed at any time.**

(c) When Judgment Rendered. No judgment shall be rendered until the time for filing a motion for new trial has expired and if such motion is filed, until it has been determined. If a motion for new trial is not filed or if one is filed and overruled, judgment shall be rendered without unreasonable delay.

(d) Motion for New Trial in Jury-Tried Cases - Allegation of Error Required. In jury-tried cases, allegations of error to be preserved for appellate review must be included in a motion for new trial except for questions as to the following:

- (1) Jurisdiction of the court over the offense charged;
- (2) Whether the indictment or information states an offense;
- (3) The sufficiency of the evidence to sustain the conviction.

23 (e) Motions for New Trial in Cases Tried Without a Jury.

24 (1) Within the time prescribed in Rule 29.11(b), a defendant may, but
25 need not, file a motion for a new trial in cases tried without a jury.

26 (2) For appellate review of cases tried without a jury a motion for new
27 trial is not necessary to preserve any matter for appellate review.

28 If a motion for new trial is filed, allegations of error to be preserved for
29 appellate review must be included in a motion for new trial except for questions
30 as to the following:

31 (A) Jurisdiction of the court over the offense charged;

32 (B) Whether the indictment or information states an offense;

33 (C) The sufficiency of the evidence to sustain the conviction.

34 (f) After Trial Motions, Including a Motion for New Trial Based Upon
35 Affidavits. When any after-trial motion, including a motion for new trial, is based
36 on facts not appearing of record, affidavits may be filed, which affidavits shall be
37 served with the motion. The opposing party has ten days after such service
38 within which to serve opposing affidavits, which period may be extended for an
39 additional period not exceeding twenty days either by the court for good cause
40 shown or by the parties by written stipulation. The court may permit reply
41 affidavits. Depositions and oral testimony may be presented in connection with
42 after-trial motions.

43 (g) When Motion for New Trial Denied. If the motion for new trial is not
44 passed on within ninety days after the motion is filed, it is denied for all
45 purposes. In computing the ninety days no day shall be counted during which the
46 court lacks power to act.

47 **(h) Who May File. A motion for a new trial may be filed by either**
48 **a defendant or a prosecutor.**

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