

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2634

BY DELEGATES MARCUM, PHILLIPS, HICKS, ELDRIDGE,

WESTFALL, DEEM, HOLLEN, HAMILTON AND DEAN

[Introduced February 21, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §56-6-19 of the Code of West Virginia, as amended, relating to
2 instructions to a jury; and prohibiting a court from giving a jury an instruction commonly
3 known as the “Allen Charge” to break a deadlock in jury deliberation to reach a verdict.

Be it enacted by the Legislature of West Virginia:

1 That §56-6-19 of the Code of West Virginia, as amended, be amended and reenacted to
2 read as follows:

ARTICLE 6. TRIAL.

§56-6-19. Instructions to jury generally; form and manner of giving.

1 Upon the trial of any case, civil or criminal, before a jury, either party may pray the court
2 to give to the jury any instruction which has been reduced to writing and submitted to the other
3 party. Such other party may object to the giving of such instruction. Every such instruction which
4 shall propound correctly law applicable to the case not covered by other instructions shall be given
5 by the court to the jury as a part of a written charge by the court to the jury, as hereinafter provided,
6 in case such charge be given, and otherwise shall be given as an independent instruction. The
7 court may, on its own motion, whether requested or not, in writing define to the jury the issues
8 involved and instruct them on the law governing the case, but all such instructions shall first be
9 submitted to counsel on each side with opportunity to object thereto. In lieu of the giving of
10 separate instructions as herein provided, the court may in writing instruct upon the law governing
11 the case, putting such instructions in the form of an orderly and connected charge, incorporating
12 therein the substance and, as far as may be, the language of the instructions prayed upon either
13 side or prepared by the court on its own motion, with correctly propounded law applicable to the
14 case, which written charge shall first be submitted to counsel on each side with opportunity to
15 specify and object to any part thereof. No objections shall lie to the action of the court upon any
16 instruction of the law to which it relates shall have been correctly stated by the court in such
17 charge. The action of the court upon every instruction prayed, whether such instruction be given
18 as asked or as modified, independently or as part of the court’s charge, or be refused, shall be

19 noted upon the margin thereof by the judge over his or her signature. Either party may except to
20 any and every ruling by the court adverse to the prayer or objection by him or her with respect to
21 any such instruction. A court may not instruct a jury using a charge commonly known as the “Allen
22 Charge”, which is so named after the case of Allen v. United States, 164 U. S. 492 (U. S. 1896),
23 in order to break a deadlock in jury deliberation to reach a verdict.

NOTE: The purpose of this bill is to prohibit a court from giving a jury an instruction commonly known as the “Allen Charge” [Allen v. United States, 164 U. S. 492 (U. S. 1896)] to break a deadlock in jury deliberation to reach a verdict.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.