

CHAPTER 215

Senate Bill No. 212
(Day and Duffy by request)

CAUSES FOR NEW TRIAL, CIVIL ACTION

AN ACT

To amend and reenact Subsection 8 of Section 28-1902 of the North Dakota Revised Code of 1943, relating to causes for new trial.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) That Subsection 8 of Section 28-1902 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

8. When without fault or negligence on the part of the party aggrieved, such party is unable to obtain or secure a correct and complete transcript of the testimony and instructions given and proceedings had at the trial. This ground or cause shall apply to all cases now pending.

Approved March 8, 1949

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 216

Senate Bill No. 211
CAUSES FOR GRANTING NEW TRIAL AND TIME OF
(Day and Duffy by request)

MAKING MOTION, CRIMINAL ACTION

AN ACT

To amend and reenact section 29-2402 of the North Dakota Revised Code of 1943, relating to causes for granting new trial, and time of making motion on cause No. 8 in this section.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

SECTION 1. AMENDMENT.) That Section 29-2402 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

29-2402. CAUSES FOR GRANTING NEW TRIAL; TIME FOR MAKING MOTION BASED UPON CAUSE NO. 8 IN THIS SECTION.) When a

verdict has been rendered against the defendant, the court in which the trial was had, upon his application, may grant a new trial in the following cases only :

1. When the trial has been had in his absence, if the information or indictment is for a felony ;
2. When the jurors have received out of court any evidence other than that resulting from a view of the premises, or any communication, document, or paper referring to the case ;
3. When the jurors, after retiring to deliberate upon their verdict, have separated without leave of the court or have been guilty of any misconduct by which a fair and due consideration of the case has been prevented ;
4. When the verdict has been decided by lot or by any means other than a fair expression of opinion on the part of all the jurors ;
5. When the court has misdirected the jurors in a matter of law, or has erred in the decision of any question of law arising during the course of the trial, or has done or allowed any act in the action prejudicial to the substantial rights of the defendant ;
6. When the verdict is contrary to law or clearly against the evidence ;
7. When new evidence is discovered which is material to the defense and which the defendant could not, with reasonable diligence, have discovered and produced at the trial ;
8. When the defendant, without fault or negligence on his or her part, is unable to procure a correct and complete transcript of the evidence given and the proceedings had at the trial.

Approved March 8, 1949.