

32.1 General Requirements

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In instructing the jury, “[i]t is well established that a judge must declare and explain the law arising upon the evidence.” *State v. Little*, 163 N.C. App. 235, 240 (2004); *see also State v. McLean*, 74 N.C. App. 224 (1985); G.S. 15A-1232. The chief purposes of the charge to the jury are clarification of the issues, elimination of extraneous matters, and declaration and explanation of applicable law. *State v. Jackson*, 228 N.C. 656 (1948); *see also State v. Williams*, 280 N.C. 132, 136 (1971) (“The chief purpose of a charge is to give a clear instruction which applies the law to the evidence in such manner as to assist the jury in understanding the case and in reaching a correct verdict.”) (citations omitted).

A trial judge is not required to follow any particular form in giving instructions and has wide discretion in presenting the issues to the jury. *State v. Harris*, 306 N.C. 724, 727–28 (1982). Still, the defendant always has the right to receive instructions on the substantial features of the case and is entitled to special instructions when requested and warranted by the evidence. *See infra* §§ 32.3B through D, Substantial Features of the Case, Subordinate Features of the Case, and Lesser Included Offenses, and § 32.4B, Requests for Special Instructions.

Before 1985, G.S. 15A-1232 required judges to summarize the evidence of both parties to the extent necessary to explain the application of the law to the evidence. This statute was amended in 1985 to remove that requirement, although the judge may still elect to do so. *See State v. Blue*, 356 N.C. 79 (2002); *State v. Taylor*, 80 N.C. App. 500 (1986); *see also* N.C. Pattern Jury Instruction—Crim. 100.00 (April 2005). If the judge does elect to summarize the evidence or explain the application of the law thereto, he or she “must be vigilant not to express an opinion as to the quality of the evidence or as to the credibility of a witness.” *State v. Artis*, 325 N.C. 278, 309 (1989), *vacated on other grounds*, 494 U.S. 1023 (1990).

Practice note: You should consider asking the judge to specifically explain the application of the law to the evidence in cases where the jury, by its questions, indicates confusion or concern about how the law relates to the evidence in a particular case. *See, e.g., State v. Blue*, 356 N.C. 79 (2002) (defendant argued that the trial judge erred in failing to specifically instruct the jury, in response to its question, that defendant had the same rights pertaining to self-defense and to the defense of habitation on his front porch as he did within his home); *State v. Moore*, 339 N.C. 456, 462 (1994) (defendant argued that the trial judge erred in failing to satisfy the jury’s request for an explanation of the law on the felony-murder rule concerning the temporal link between the killing and the underlying felony of discharging a firearm into occupied property).

There are also mandatory and discretionary instructions about reaching a verdict, discussed *infra* Chapter 34, Deliberations and Verdict (2d ed. 2012).