

2020 Regular Session

HOUSE BILL NO. 46

BY REPRESENTATIVE HUVAL

CIVIL/JURY TRIALS: Provides relative to expedited jury trials

1 AN ACT

2 To enact Code of Civil Procedure Articles 1553 and 1571(A)(3), Chapter 8 of Title V of
3 Book II of the Code of Civil Procedure, to be comprised of Articles 1815 through
4 1838, and Code of Civil Procedure Article 4872(C), relative to expedited jury trials;
5 to provide for pretrial conferences; to provide for special assignment by court rule;
6 to provide that motions of summary judgment be filed prior to trial; to provide for
7 the number of jurors; to provide that a cash deposit for all costs associated with jury
8 costs be timely made; to provide for the service, swearing, and examination of jurors;
9 to provide for the selection of a foreperson; to provide for challenges for cause; to
10 provide for peremptory challenges; to provide for a time limit for an expedited jury
11 trial; to provide for expert witnesses, their fees, and the presentation of their
12 evidence; to provide for the admittance of exhibits; to provide for charges to the jury;
13 to provide for the use of juror notes; to authorize jurors to take evidence into the jury
14 room; to provide for the number of jurors needed for the court to render a verdict;
15 to provide for post-verdict relief; to provide for appeals; to prohibit transfer of
16 certain actions to district court; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Code of Civil Procedure Articles 1553 and 1571(A)(3), Chapter 8 of Title
19 V of Book II of the Code of Civil Procedure, comprised of Articles 1815 through 1838, and
20 Code of Civil Procedure Article 4872(C), are hereby enacted to read as follows:

1 Art. 1553. Expedited jury trial pretrial conference; order

2 A. If an expedited jury trial has been requested, the parties shall prepare and
3 present to the court at the pretrial conference a proposed joint pretrial order
4 containing the following:

5 (1) A list of all witnesses for each party.

6 (2) A list of all exhibits for each party.

7 (3) A list of all experts and a designation as to whether each of them will
8 testify in person, by report, or by deposition.

9 (4) A certification that each party will present its case within the time limits
10 of Article 1828.

11 B. The pretrial order may, by agreement of the parties, contain additional
12 stipulations, which shall be binding on the court and all parties, including but not
13 limited to the following:

14 (1) A limitation of damages to an amount not in excess of the stated limits
15 of a policy of insurance.

16 (2) Any maximum or minimum amounts that shall apply to the jury's verdict.

17 (3) A waiver of any provision of the Code of Evidence.

18 (4) An agreement as to the payment of the cash deposit for the jury costs.

19 C. Subject to the provisions of Article 1816, the court shall conduct the
20 expedited jury trial within one hundred eighty days after the pretrial conference.

21 D. Subject to the provisions of Article 1571, the date of the expedited jury
22 trial shall be set at the pretrial conference even if discovery has not yet been
23 completed.

24 E. In the pretrial order, the court shall fix the deadline for filing the cash
25 deposit, which shall be no later than sixty days prior to trial.

26 F. The parties and their attorneys, as well as the court, shall sign the pretrial
27 order and file it into the record. The signatures of a party and his attorney shall
28 constitute a certification that the party agreed to the terms of the pretrial order and
29 an expedited jury trial.

1 G. The court may amend a pretrial order at any time, but only with the
2 agreement of all parties.

3 * * *

4 Art. 1571. Assignment by court rule

5 A.

6 * * *

7 (3) These rules shall require the assignment of an expedited jury trial
8 pursuant to Article 1815 et seq., to be assigned by special setting only and shall
9 prohibit the assignment of a case for an expedited jury trial to upset a previously
10 assigned civil or criminal trial.

11 * * *

12 CHAPTER 8. EXPEDITED JURY TRIALS

13 Art. 1815. Expedited jury trials

14 An expedited jury trial is a method of trial by jury in which the parties
15 present their evidence in an efficient, expedited fashion.

16 Art. 1816. Joint motion for an expedited jury trial

17 Upon joint motion of all parties for an expedited jury trial, the court shall set
18 the matter for a pretrial conference in accordance with Article 1553 to be held within
19 forty-five days after the filing of the motion. The court shall grant the parties' joint
20 motion for an expedited jury trial unless the court, in its discretion, finds that an
21 expedited jury trial is not in the best interest of justice. An expedited jury trial shall
22 be allowed whether or not any party previously requested a trial by jury and, upon
23 consent of all parties, whether or not the petitioner's cause of action exceeds fifty
24 thousand dollars exclusive of interests and costs.

25 Art. 1817. Agreement for an expedited jury trial; prohibition

26 An agreement to try an action by expedited jury trial shall not be made prior
27 to the institution of the action.

1 Art. 1818. Cash deposit; procedure

2 A. The court shall fix the cash deposit for the jury costs at an amount
3 sufficient for payment of all costs associated with the expedited jury trial, including
4 juror fees and expenses and charges of the clerk of court.

5 B. If the deposit is not timely made, the other parties shall have an additional
6 ten days to make the required deposit.

7 C. When an expedited jury trial has been granted in a suit against the state,
8 a state agency, or a political subdivision, payment of the cash deposit shall be in
9 accordance with R.S. 13:5105.

10 Art. 1819. Motion for summary judgment

11 All motions for summary judgment in an action for which an expedited jury
12 trial has been granted shall be filed at least sixty-five days prior to the trial date.

13 Art. 1820. Jurors

14 In cases to be tried by an expedited jury trial, six jurors shall be chosen by lot
15 to try all issues.

16 Art. 1821. Service to jurors

17 All jurors shall be served by any method authorized by law.

18 Art. 1822. Swearing of juror before examination

19 Before being examined, every prospective juror shall be sworn and shall
20 affirm to answer truthfully such questions as may be propounded to him.

21 Art. 1823. Examination of juror

22 A. The court shall examine prospective jurors as to their qualifications and
23 may conduct such further examination as it deems appropriate.

24 B. The parties or their attorneys may individually conduct an examination
25 of all prospective jurors, not to exceed a total of twenty minutes for each side.

26 Art. 1824. Challenges for cause

27 A juror may be challenged for cause in accordance with Articles 1765
28 through 1767.

1 Art. 1825. Peremptory challenges

2 Each side is allowed two peremptory challenges. If there is more than one
3 party on any side, the court may allow each side one additional challenge.

4 Art.1826. Swearing of jurors; selection of foreperson

5 The jurors shall be sworn and the foreperson shall be selected in accordance
6 with Article 1768.

7 Art. 1827. Alternate jurors

8 No alternate juror shall be called or selected in an expedited jury trial.

9 Art. 1828. Procedure in expedited jury trials

10 A. Each side shall be allowed three hours to present its case, including
11 opening statements, direct examination, cross-examination, rebuttal, and closing
12 arguments. Opening statements shall not exceed ten minutes for each side, and
13 closing arguments shall not exceed fifteen minutes for each side. Time spent on
14 objections and bench conferences are not included in the time limits.

15 B. Notwithstanding the time limitations in Paragraph A of this Article, the
16 court shall retain control over the interrogation of witnesses and presentation of
17 evidence in accordance with Code of Evidence Article 611. The court may, in its
18 discretion, extend the time limitations in Paragraph A of this Article if it finds that
19 a party, his attorney or representative, or a witness is causing the needless
20 consumption of time.

21 Art. 1829. Exhibits

22 A. At least thirty days prior to the jury trial, the parties shall exchange copies
23 of all proposed exhibits they plan to offer at trial.

24 B. Objections to exhibits shall be made at least twenty days prior to the trial.
25 At least five days prior to trial, the court shall rule on the admissibility of any exhibit
26 to which an objection has been made. If no objection is made at least twenty days
27 prior to the trial, the exhibit shall be admitted.

28 C. All exhibits shall be marked and admitted into evidence at the beginning
29 of trial.

1 Art. 1830. Expert witnesses

2 A. Expert witnesses may testify in person, or their testimony may be
3 presented by reports, depositions, or video depositions. If an expert witness is called
4 to testify in person at trial, the party calling the expert shall be responsible for all of
5 his expert fees, which shall not be taxed as court costs.

6 B. All motions challenging the qualifications or methodologies of an expert
7 witness shall be filed and heard by the court in accordance with Article 1425(F).

8 C. An expert who is listed in the pretrial order shall be allowed to testify at
9 trial unless the court precludes his testimony by an order issued in response to a
10 pretrial motion.

11 D. All expert reports to be introduced at trial shall be exchanged prior to the
12 pretrial conference.

13 Art. 1831. Charge to jury

14 A. At any time during the trial, the court may instruct the jury on the law
15 applicable to any issue in the case.

16 B. After the trial of the case and the presentation of all the evidence and
17 arguments, the court shall give a charge to the jury on the applicable law. The court
18 shall provide to the parties a written copy of the charge prior to the trial.

19 C. The jury may take with them or have sent to them a written copy of all
20 instructions and charges.

21 Art. 1832. Juror notes

22 Jurors shall be permitted to take notes in accordance with Article 1794.

23 Art. 1833. Taking evidence into the jury room

24 The court shall allow the jury to take with them into the jury room any object,
25 writing, or exhibit, except depositions, that has been admitted into evidence.

26 Art. 1834. Verdict; number of jurors required

27 Five of the six jurors must concur to render a verdict unless the parties
28 stipulate otherwise. In the event that one juror becomes unable to serve, four out of

1 the five remaining jurors must concur to render a verdict. If there are fewer than five
2 jurors, a mistrial shall be granted, unless the parties agree otherwise on the record.

3 Art. 1835. General verdict

4 A. The court shall submit to the jury the general verdict form and written
5 interrogatories agreed upon by all parties.

6 B. If the parties cannot agree on a verdict form and interrogatories, the court
7 shall inform the parties, prior to closing arguments, of the verdict form and
8 interrogatories it intends to submit to the jury. The parties shall be given a
9 reasonable opportunity to make any objections to the court's verdict form and
10 interrogatories.

11 Art. 1836. Post verdict relief

12 After an expedited jury trial, any party may file motions in accordance with
13 Articles 1811, 1814, and 1971 through 1979. The parties shall not waive these rights
14 by stipulation in open court or in the pretrial order.

15 Art. 1837. Appeals

16 Following an expedited jury trial, the parties shall be allowed to appeal in
17 accordance with the procedure for appeals in Chapter 2 of Title I of Book III of this
18 Code. The parties shall not waive the right to appeal in the pretrial order or by
19 stipulation in open court.

20 Art. 1838. Applicability of general rules of trial by jury

21 Except as expressly provided in this Chapter, the general rules applicable to
22 trial by jury shall apply.

23 * * *

24 Art. 4872. Transfer to district court

25 * * *

26 C. When a principal demand commenced in a court of limited jurisdiction
27 is one in which the parties are not entitled to a trial by jury under Article 1732(1), the
28 parties shall not be entitled to transfer an action to district court for an expedited trial
29 by jury under Article 1816.

1 Section 2. The provisions of this Act become effective on January 1, 2021, and shall
2 apply to all actions pending on that date or filed thereafter.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 46 Original

2020 Regular Session

Huval

Abstract: Establishes expedited jury trials, provides for the availability of expedited jury trials in certain civil matters, and provides for the procedures for an expedited jury trial.

Proposed law provides procedures for expedited jury trials.

Proposed law (C.C.P. Art. 1553) provides that the court shall schedule a pretrial conference with the parties, that the parties shall have a pretrial order at the pretrial conference, and that the parties shall certify that they agree to an expedited jury trial.

Present law (C.C.P. Art. 1571) provides for assignment of cases for trial by court rule.

Proposed law retains present law and requires that an expedited jury trial be set by special assignment and prohibits the setting from upsetting a previously assigned civil or criminal trial.

Proposed law (C.C.P. Art. 1816) provides that upon a joint motion of all parties, the court shall set the matter for a pretrial conference in accordance with Art. 1553 to be held within 45 days of the filing of the motion. Further provides the court with discretion in granting the motion for an expedited jury trial if it is not in the best interest of justice and allows the parties to consent to an expedited jury trial even when the cause of action does not exceed \$50,000.

Proposed law (C.C.P. Art. 1817) prohibits parties from agreeing to an expedited jury trial in advance of the institution of the action.

Proposed law (C.C.P. Art. 1818) provides the amount that the court shall fix for the cash deposit for an expedited jury trial and the time period during which the deposit must be made. Requires cash deposits in expedited jury trials against the state, a state agency, or a political subdivision to be made in accordance with present law.

Present law (R.S. 13:5105) provides limitations on jury trials against the state, requires the party demanding a jury trial to pay all costs, including posting of a bond or cash deposit, and exempts the state, state agency, or state employee from the payment of any costs required for a jury trial in certain cases.

Proposed law (C.C.P. Art. 1819) provides that parties to an expedited jury trial shall file all motions for summary judgment 65 days prior to the trial date.

Proposed law (C.C.P. Art. 1820) provides that six jurors shall be chosen by lot to try all issues present in an expedited jury trial.

Proposed law (C.C.P. Art. 1821) provides that all jurors of an expedited jury trial shall be served by any method authorized by law.

Proposed law (C.C.P. Art. 1822) provides that, before examination, every prospective juror shall be sworn and affirm to answer truthfully questions asked of him.

Proposed law (C.C.P. Art. 1823) provides that the court shall examine prospective jurors, and the parties may conduct an examination of all such jurors but for no more than 20 minutes in total.

Proposed law (C.C.P. Art. 1824) provides that a juror may be challenged for cause in accordance with present law (C.C.P. Arts. 1765-1767).

Proposed law (C.C.P. Art. 1825) provides that each side is allowed two peremptory challenges, but if there is more than one party on either side, the court may allow additional challenges.

Proposed law (C.C.P. Art. 1826) provides that jurors shall be sworn and a foreperson selected in accordance with present law (C.C.P. Art. 1768).

Proposed law (C.C.P. Art. 1827) provides that no alternate jurors shall be called or selected in an expedited jury trial.

Proposed law (C.C.P. Art. 1828) provides that the entire expedited jury trial shall not exceed six hours, the opening statements shall not exceed 10 minutes per side, closing arguments shall not exceed 15 minutes per side, and that time spent on objections and bench conferences does not count against the six-hour time limit. Further provides that the court may extend the time limitations in certain circumstances.

Proposed law (C.C.P. Art. 1829) provides that no later than 30 days prior to trial, the parties shall exchange all exhibits they plan to offer at trial and provides the time limits during which a party may object to exhibits, when the court must rule on the admissibility of the exhibits, and when exhibits shall be marked and admitted into evidence.

Proposed law (C.C.P. Art. 1830) provides for expert witnesses to testify in person or by reports, depositions, or video depositions and provides that each side shall pay for his expert fees, provides that all motions challenging an expert shall be filed and heard in accordance with present law (C.C.P. Art. 1425(F)), and provides that all expert reports to be used at trial shall be exchanged prior to the pre-trial conference.

Proposed law (C.C.P. Art. 1831) provides that the court may instruct the jury as to any applicable law, that the court shall provide the parties a written copy of the charge prior to the trial, and that the jury may take with it or have sent to it a written copy of all instructions and charges.

Proposed law (C.C.P. Art. 1832) provides that jurors may take notes, in accordance with present law (C.C.P. Art. 1794).

Proposed law (C.C.P. Art. 1833) provides that jurors may take any object, writing, or exhibit that has been admitted into evidence, with the exception of depositions, into the jury room.

Proposed law (C.C.P. Art. 1834) provides for the number of jurors that must concur for a verdict to be rendered.

Proposed law (C.C.P. Art. 1835) provides that the court shall submit the general verdict form and interrogatories agreed upon by the parties; otherwise, the court shall give the parties a reasonable time to object to the court's supplied verdict form and interrogatories.

Proposed law (C.C.P. Art. 1836) provides that any party may file a motion for judgment notwithstanding the verdict, remittitur or additur, or a new trial in accordance with present

law (C.C.P. Arts. 1811, 1814, and 1971-1979) and prohibits the party from waiving these rights.

Proposed law (C.C.P. Art. 1837) provides that a party may appeal in accordance with the procedure for appeals in present law and prohibits the party from waiving these rights.

Proposed law (C.C.P. Art. 1838) provides that, except as provided by proposed law, the general rules applicable to jury trials apply.

Present law (C.C.P. Art. 4872) provides for transfer of cases in certain circumstances to district court.

Proposed law retains present law and prohibits parties from moving for an expedited jury trial and requesting a transfer to district court when the principal demand originates in a court of limited jurisdiction and the parties are not entitled to a trial by jury because the cause of action does not exceed \$50,000.

Effective Jan. 1, 2021.

(Adds C.C.P. Arts. 1553, 1571(A)(3), 1815-1838, and 4872(C))