

Regular Session, 2013

HOUSE BILL NO. 321

BY REPRESENTATIVES HUVAL AND ABRAMSON

(On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/JURY TRIALS: Provides relative to expedited jury trials

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AN ACT

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

1 Be it enacted by the Legislature of Louisiana:

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

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

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

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

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

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

13 (4) A certification that each party can present its case within the time limits
14 of Article 1828.

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

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

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

21 (3) A waiver of any right to an appeal or limitations as to appealable issues.

22 (4) A waiver of any right to move for a new trial.

23 (5) A waiver of any provision of the Code of Evidence.

24 (6) An agreement as to the payment of the cash deposit for the jury costs.

25 C. Subject to the provisions of Article 1816, the court shall conduct the
26 expedited jury trial within one hundred twenty days after the pretrial conference.

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

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

3 F. The parties or their attorneys, as well as the court, shall sign the pretrial
4 order and file it into the record. The signature of a party or his attorney shall
5 constitute a certification that the party agreed to the terms of the pretrial order and
6 an expedited jury trial.

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

9 * * *

10 Art. 1571. Assignment by court rule

11 A.

12 * * *

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

17 * * *

18 CHAPTER 8. EXPEDITED JURY TRIALS

19 Art. 1815. Expedited jury trials

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

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

23 Upon joint motion of all parties for an expedited jury trial, the court shall set
24 the matter for a pretrial conference in accordance with Article 1553 to be held within
25 forty-five days after the filing of the motion. The court shall grant the parties' joint
26 motion for an expedited jury trial unless the court, in its discretion, finds that an
27 expedited jury trial is not in the best interest of justice. An expedited jury trial shall
28 be allowed whether or not any party previously requested a trial by jury and, upon

1 consent of all parties, whether or not the petitioner's cause of action exceeds fifty
2 thousand dollars exclusive of interests and costs.

3 Comment - 2014

4 If all parties agree, an expedited jury trial shall be available to the parties
5 even if no party had requested a jury trial in any previous pleadings. Specifically,
6 the time periods for requesting a jury trial in Article 1733 do not apply to an
7 expedited jury trial.

8 Art. 1817. Agreement for an expedited jury trial

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

11 Art. 1818. Cash deposit; procedure

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

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

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

20 Art. 1819. Motion for summary judgment

21 All motions for summary judgment in which an expedited jury trial has been
22 granted shall be filed at least sixty days prior to the trial date.

23 Art. 1820. Jurors

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

26 Art. 1821. Service to jurors

27 All jurors shall be served by regular mail.

28 Art. 1822. Swearing of juror before examination

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

1 B. Objections to exhibits shall be made at least twenty days prior to the trial.

2 At least five days prior to trial, the court shall rule on the admissibility of any exhibit
3 to which an objection has been made. If no objection is made at least twenty days
4 prior to the trial, the exhibit shall be admitted.

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

7 Art. 1830. Expert witnesses

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

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

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

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

19 Art. 1831. Charge to jury

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

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

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

27 Art. 1832. Juror notes

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

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 party demanding jury trial to pay all costs including posting of a bond or cash deposit, 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 60 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 regular mail.

Proposed law (C.C.P. Art. 1822) provides that before examination, every prospective juror shall be sworn and affirm to answer truthfully questions propounded to 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 no more than 20 minutes in total.

Proposed law (C.C.P. Art. 1824) provides that a juror can be challenged for cause in accordance with 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 can allow additional challenges.

Proposed law (C.C.P. Art. 1826) provides that jurors shall be sworn and a foreperson selected in accordance with 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 conference does not count against the six-hour time limit.

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, the time limits during which a party can 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, by reports, depositions, or video depositions and that each side shall pay for his expert fees, that all motions challenging an expert shall be filed and heard in accordance with C.C.P. Art. 1425(F), and 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 can 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, in accordance with C.C.P. Art. 1794, jurors can take notes.

Proposed law (C.C.P. Art. 1833) provides that jurors can 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, and that if fewer than five agree, a mistrial must be granted unless the parties agree otherwise on the record.

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 unless the parties have waived a motion by stipulation in open court or in the pretrial order, any party may file a motion in accordance with the C.C.P. Arts. 1811, 1814, and 1971-1979.

Proposed law (C.C.P. Art. 1837) provides that unless the parties have waived the right to appeal by stipulation in open court or in the pretrial order, a party may appeal in accordance with the procedure for appeals in Book III of the C.C.P.

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

Present law (C.C.P. Art. 4872) provides for transfer of cases in certain cases 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, 2014.

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

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added requirement that an expedited jury trial be set by special setting and that an expedited jury trial setting not upset a previously set civil or criminal trial.
2. Required a pretrial conference to be held within 45 days of the filing of the joint motion for an expedited jury trial and provided the court with discretion in granting a motion for an expedited jury trial if the court finds that it is not in the best interest of justice.
3. Allowed parties to consent to an expedited jury trial even when the cause of action does not exceed \$50,000.

4. Prohibited parties from agreeing to an expedited jury trial prior to the filing of an action.
5. Required cash deposits in expedited jury trials against the state, a state agency, or a political subdivision to be made in accordance with present law.
6. Prohibited parties from being able to request an expedited jury trial and transfer the matter to district court when the matter was originally filed in a court of limited jurisdiction and the cause of action did not exceed \$50,000.