

CONFERENCE COMMITTEE REPORT

HB 57

2020 First Extraordinary Session

Schexnayder

June 29, 2020

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 57 by Representative Schexnayder, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Senate Committee on Judiciary A (#254) be rejected.
2. That the set of Senate Floor Amendments by Senator Peacock (#325) be rejected.
3. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, delete lines 2 and 3 in their entirety and insert the following:

"To amend and reenact Code of Civil Procedure Articles 1732, 1733(A), and 4873(1) and Code of Evidence Article 411 and to repeal R.S. 32:295.1(E), relative"

AMENDMENT NO. 2

On page 1, line 4, after "threshold;" and before "to limit" insert "to provide for a jury cash deposit;"

AMENDMENT NO. 3

On page 1, line 5, after "courts;" delete the remainder of the line and delete line 6 in its entirety and insert the following:

"to provide relative to the admissibility of evidence of liability insurance; to repeal provisions"

AMENDMENT NO. 4

On page 1, line 12, after "1732" and before "and 4873(1)" insert a comma "," and insert "1733(A),"

AMENDMENT NO. 5

On page 2, line 20, after "delictual" and before "actions" insert "or quasi-delictual"

AMENDMENT NO. 6

On page 3, delete line 4 in its entirety and insert the following:

"Art. 1733. Demand for jury trial; bond for costs
A.(1) Except as provided in Subparagraph (2) of this Paragraph, a party may obtain a trial by jury by filing a pleading demanding a trial by jury and a bond in the amount and within the time set by the court pursuant to Article 1734.

(2)(a) In a suit for damages arising from a delictual or quasi-delictual action where the amount of an individual petitioner's cause of action exceeds ten thousand dollars and is less than fifty thousand dollars, a party may obtain a trial by jury by filing a pleading demanding a trial by jury and providing a cash deposit of five thousand dollars no later than sixty days after filing the request for a trial by jury. Failure to post the cash deposit as required by this Subparagraph shall constitute a waiver of the trial by jury. This cash deposit shall be subject to Article 1734.1(E).

(b) When the case is set for trial, the court may additionally provide for a supplemental bond or cash deposit in accordance with Article 1734 or 1734.1.

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AMENDMENT NO. 7

On page 3, delete lines 16 through 28 and on page 4, delete lines 1 through 7 and insert the following:

"Section 3. Code of Evidence Article 411 is hereby amended and reenacted to read as follows:

Art. 411. Liability insurance

A. Although a policy of insurance may be admissible, the amount of coverage under the policy shall not be communicated to the jury unless the amount of coverage is a disputed issue which the jury will decide.

B. The existence of insurance coverage shall not be communicated to the jury unless any of the following apply:

(1) A factual dispute related to an issue of coverage is an issue which the jury will decide.

(2) The existence of insurance coverage would be admissible to attack the credibility of a witness pursuant to Article 607.

(3) The cause of action is brought against the insurer pursuant to R.S. 22:1973 or against the insurer alone pursuant to R.S. 22:1269(B)(1)(a) through (f).

C. The identity of the insurer shall not be communicated to the jury unless the identity of the insurer would be admissible to attack the credibility of a witness pursuant to Article 607.

D. In all cases brought against an insurer pursuant to R.S. 22:1269 or 1973, at the opening and closing of the trial, the court shall read instructions to the jury that there is insurance coverage for the damages claimed by the plaintiff."

AMENDMENT NO. 8

On page 4, at the beginning of line 8, change "Section 5." to "Section 4."

AMENDMENT NO. 9

On page 4, at the beginning of line 9, change "Section 6." to "Section 5."

Respectfully submitted,

Representative Clay Schexnayder

Senator Patrick Page Cortez

Representative Gregory A. Miller

Senator Barrow Peacock

Representative John M. Stefanski

Senator W. Jay Luneau

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 57

2020 First Extraordinary Session

Schexnayder

Keyword and oneliner of the instrument as it left the House

CIVIL/ACTIONS: Enacts the Civil Justice Reform Act of 2020 (Item #40)

Report adopts Senate amendments to:

1. Limited the recovery of medical expenses.
2. Limited the admissibility of the existence of insurance coverage, except in certain circumstances.

Report amends the bill to:

1. Require that in a tort action where the amount in controversy exceeds \$10,000 and is less than \$50,000, a party requesting a jury trial shall provide a bond or cash deposit in the amount of \$5,000.
2. Limit the admissibility of the existence of insurance coverage, except in certain circumstances.
3. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Proposed law creates the Civil Justice Reform Act of 2020.

Jury Trials

Present law (C.C.P. Art. 1732) authorizes a jury trial when the amount in controversy exceeds \$50,000.

Proposed law reduces the threshold for a jury trial to \$10,000.

Present law (C.C.P. Art. 4873) provides that where a principal demand is commenced in a parish or city court in which the defendant would otherwise be entitled to trial by jury, the defendant may obtain a jury trial by transferring the action to the district court in the manner provided by present law.

Proposed law retains present law and provides that if a party fails to file a motion to transfer within the delays provided by present law, the matter shall not be transferred.

Proposed law further provides that a jury trial shall not be available for non-tort suits originally filed in parish or city court when the amount in controversy does not exceed the parish or city court's jurisdictional limit.

Present law (C.C.P. Art. 1733) provides that a party may obtain a trial by jury by filing a pleading demanding a trial by jury and a bond in the amount and within the time set by the court pursuant to present law.

Proposed law retains present law and provides that in a tort action where the amount in controversy exceeds \$10,000, but is less than \$50,000, a party requesting a jury trial shall provide a cash deposit in the amount of \$5,000.

Proposed law further provides that when the case is set for trial, the court may provide for a supplemental bond or cash deposit in accordance with present law.

Evidence of Liability Insurance

Present law (C.E. Art. 411) provides that although a policy of insurance may be admissible, the amount of coverage under the policy shall not be communicated to the jury unless the amount of coverage is a disputed issue which the jury will decide.

Proposed law retains present law and provides that the existence of insurance coverage shall not be communicated to the jury, unless any of the following apply:

- (1) A factual dispute related to an issue of coverage is an issue which the jury will decide.
- (2) The existence of insurance coverage would be admissible to attack the credibility of a witness pursuant to present law (C.E. Art. 607) which provides for attacking and supporting a witness' credibility.
- (3) The cause of action is brought against the insurer alone in the limited circumstances provided for in present law direct action statute and bad faith insurance.

Proposed law provides that the identity of the insurer shall not be communicated to the jury unless the identity of the insurer would be admissible to attack the credibility of a witness pursuant to present law.

Proposed law provides that in all cases brought against an insurer, at the opening and closing of the trial, the court shall read instructions to the jury that there is insurance coverage for the damages claimed by the plaintiff.

Evidence of Failure to Wear a Safety Belt

Present law (R.S. 32:295.1(E)) provides that the failure to wear a safety belt in violation of present law shall not be admitted to mitigate damages in any action to recover damages arising out of the ownership, common maintenance, or operation of motor vehicle, and the failure to wear a safety belt in violation of present law shall not be considered evidence of comparative negligence.

Proposed law repeals present law.

Effective Date

Proposed law provides that the provisions of proposed law shall become effective on Jan. 1, 2021, and shall have prospective application only and shall not apply to a cause of action arising or action pending prior to Jan. 1, 2021.

(Amends C.C.P. Arts. 1732, 1733(A), and 4873(1) and C.E. Art. 411; Repeals R.S. 32:295.1(E))