

Regular Session, 2014

HOUSE BILL NO. 153

BY REPRESENTATIVES HUVAL AND ABRAMSON

CIVIL/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 provision of the Code of Evidence.

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

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

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

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

1 Art. 1817. Agreement for an expedited jury trial

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

4 Art. 1818. Cash deposit; procedure

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

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

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

13 Art. 1819. Motion for summary judgment

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

16 Art. 1820. Jurors

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

19 Art. 1821. Service to jurors

20 All jurors shall be served by regular mail.

21 Art. 1822. Swearing of juror before examination

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

24 Art. 1823. Examination of juror

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

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

1 Art. 1824. Challenges for cause

2 A juror may be challenged for cause in accordance with Articles 1765
3 through 1767.

4 Art. 1825. Peremptory challenges

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

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

8 The jurors shall be sworn and the foreperson shall be selected in accordance
9 with Article 1768.

10 Art. 1827. Alternate jurors

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

12 Art. 1828. Procedure in expedited jury trials

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

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

24 Art. 1829. Exhibits

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

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

28 At least five days prior to trial, the court shall rule on the admissibility of any exhibit

1 to which an objection has been made. If no objection is made at least twenty days
2 prior to the trial, the exhibit shall be admitted.

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

5 Art. 1830. Expert witnesses

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

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

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

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

17 Art. 1831. Charge to jury

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

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

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

25 Art. 1832. Juror notes

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

27 Art. 1833. Taking evidence into the jury room

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

1 Art. 1834. Number required for verdict

2 Five of the six jurors must concur to render a verdict unless the parties
3 stipulate otherwise. In the event that one juror becomes unable to serve, four out of
4 the five remaining jurors must concur to render a verdict. If there are fewer than five
5 jurors, a mistrial shall be granted, unless the parties agree otherwise on the record.

6 Art. 1835. General verdict

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

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

14 Art. 1836. Post verdict relief

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

18 Art. 1837. Appeals

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

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

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

26 * * *

27 Art. 4872. Transfer to district court

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

5 Section 2. The provisions of this Act become effective on January 1, 2015, and shall
 6 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)]

Huval

HB No. 153

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 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 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. Further provides 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, 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 any party may file a motion in accordance with the 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 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, 2015.

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