

2020 First Extraordinary Session

HOUSE BILL NO. 57

BY REPRESENTATIVE SCHEXNAYDER

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

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 1732 and 4873(1) and Code of
3 Evidence Article 409, to enact R.S. 13:3737, and to repeal R.S. 32:295.1(E), relative
4 to civil actions; to lower the jury trial threshold; to limit the transfer of cases from
5 courts of limited jurisdiction to district courts; to authorize the admissibility of
6 evidence of medical expenses paid under certain circumstances; to repeal provisions
7 prohibiting certain evidence regarding the failure to wear safety belts; to provide for
8 an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. The provisions of this Act shall be known as the "Civil Justice Reform
11 Act of 2020".

12 Section 2. Code of Civil Procedure Articles 1732 and 4873(1) are hereby amended
13 and reenacted to read as follows:

14 Art. 1732. Limitation upon jury trials

15 A trial by jury shall not be available in:

16 (1) A suit where the amount of no individual petitioner's cause of action
17 exceeds ~~fifty~~ ten thousand dollars exclusive of interest and costs, except as follows:

18 (a) If an individual petitioner stipulates or otherwise judicially admits sixty
19 days or more prior to trial that the amount of the individual petitioner's cause of

1 action does not exceed ~~fifty~~ ten thousand dollars exclusive of interest and costs, a
2 defendant shall not be entitled to a trial by jury.

3 (b) If an individual petitioner stipulates or otherwise judicially admits for the
4 first time less than sixty days prior to trial that the amount of the individual
5 petitioner's cause of action does not exceed ~~fifty~~ ten thousand dollars exclusive of
6 interest and costs, any other party may retain the right to a trial by jury if that party
7 is entitled to a trial by jury pursuant to this Article and has otherwise complied with
8 the procedural requirements for obtaining a trial by jury.

9 (c) Notwithstanding Subsubparagraphs (a) and (b) of this Subparagraph, if,
10 as a result of a compromise or dismissal of one or more claims or parties which
11 occurs less than sixty days prior to trial, an individual petitioner stipulates or
12 otherwise judicially admits that the amount of the individual petitioner's cause of
13 action does not exceed ~~fifty~~ ten thousand dollars exclusive of interest and costs, a
14 defendant shall not be entitled to a trial by jury.

15 (2)(a) A suit commenced in a parish or city court, wherein the individual
16 petitioner stipulates or otherwise judicially admits that the amount of the individual
17 petitioner's cause of action does not exceed the amount in dispute to which the
18 jurisdiction of the court is limited by Articles 4842 and 4843, exclusive of interest,
19 penalties, attorney fees, and costs.

20 (b) The provisions of this Paragraph shall not apply to delictual actions,
21 which shall be governed by the provisions of Paragraph (1) of this Article.

22 (3) A suit on an unconditional obligation to pay a specific sum of money,
23 unless the defense thereto is forgery, fraud, error, want, or failure of consideration.

24 ~~(3)~~ (4) A summary, executory, probate, partition, mandamus, habeas corpus,
25 quo warranto, injunction, concursus, workers' compensation, emancipation,
26 tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce
27 proceeding.

28 ~~(4)~~ (5) A proceeding to determine custody, visitation, alimony, or child
29 support.

1 ~~(5)~~ (6) A proceeding to review an action by an administrative or municipal
2 body.

3 ~~(6)~~ (7) All cases where a jury trial is specifically denied by law.

4 * * *

5 Art. 4873. Transfer to district court; procedure; contest; effect

6 A party entitled thereto under the provisions of Article 4872 may transfer the
7 action to the district court in the following manner:

8 (1) Within the delay allowed for answer in the trial court of the limited
9 jurisdiction, or within ten days after answer has been filed, he shall file a motion to
10 transfer with the clerk of the court in which the suit is pending. The motion shall
11 include a declaration that the matter is one to which defendant would have been
12 entitled to trial by jury if commenced in district court, and that defendant desires trial
13 by jury. If a party fails to file a motion to transfer within the delays required by this
14 Paragraph, the matter shall not be transferred.

15 * * *

16 Section 3. Code of Evidence Article 409 is hereby amended and reenacted to read
17 as follows:

18 Art. 409. Payment of medical and similar expenses

19 In a civil case, evidence of furnishing or offering or promising to pay
20 expenses or losses occasioned by an injury to person or damage to property is not
21 admissible to prove liability for the injury or damage ~~nor is it admissible to mitigate,~~
22 ~~reduce, or avoid liability therefor.~~ In all civil actions where damages for any medical
23 or hospital expenses are claimed and are legally recoverable for personal injury or
24 death, evidence that the plaintiff's medical or hospital expenses have been or will be
25 paid or reimbursed and any agreement to pay shall be admissible. The trier of fact
26 may use such evidence to determine, mitigate, or reduce the amount of damages.

27 This Article does not require the exclusion of ~~such evidence~~ evidence of
28 furnishing or offering or promising to pay expenses or losses occasioned by an injury

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 to person or damage to property when it is offered solely for another purpose, such
 2 as to enforce a contract for payment.

3 Section 4. R.S. 13:3737 is hereby enacted to read as follows:

4 §3737. Evidence of medical payments

5 In any claim for medical expenses, the court shall allow the introduction of
 6 all admissible evidence, in accordance with Code of Evidence Article 409, and such
 7 evidence shall be considered by the trier of fact in calculating damages.

8 Section 5. R.S. 32:295.1(E) is hereby repealed in its entirety.

9 Section 6. This Act shall become effective on January 1, 2021, and shall have
 10 prospective application only and shall not apply to a cause of action arising or action
 11 pending prior to January 1, 2021.

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 57 Reengrossed

2020 First Extraordinary Session

Schexnayder

Abstract: Creates the Civil Justice Reform Act of 2020 which reduces the threshold for a jury trial, provides for the transfer of cases from courts of limited jurisdiction to district courts, provides for evidence of medical expense payments, and repeals the limitation on presenting evidence of the failure to wear a safety belt.

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 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.

Evidence of Medical Payments

Present law (C.E. 409) provides that in a civil case, evidence of furnishing or offering or promising to pay expenses or losses occasioned by an injury to person or damage to property is not admissible to prove liability for the injury or damage.

Proposed law retains present law.

Present law provides that evidence of furnishing or offering or promising to pay expenses or losses is not admissible to mitigate, reduce, or avoid liability therefor.

Proposed law repeals present law and provides that in all civil actions where damages for any medical or hospital expenses are claimed and are legally recoverable for personal injury or death, evidence that the plaintiff's medical or hospital expenses have been or will be paid or reimbursed and any agreement to pay shall be admissible. Proposed law further provides that the trier of fact may use such evidence to determine, mitigate, or reduce the amount of damages.

Present law does not require the exclusion of evidence of furnishing or offering or promising to pay expenses or losses occasioned by an injury to person or damage to property when it is offered solely for another purpose, such as to enforce a contract for payment.

Proposed law retains present law.

Proposed law (R.S. 13:3737) provides that in a claim for medical expenses, the court shall allow the introduction of all admissible evidence and such evidence shall be considered by the trier of fact in calculating damages.

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 and 4873(1) and C.E. Art. 409; Adds R.S. 13:3737; Repeals R.S. 32:295.1(E))

Summary of Amendments Adopted by House**The House Floor Amendments to the engrossed bill:**

1. Remove provisions prohibiting the transfer of non-tort suits and requiring the posting of the jury bond.
2. Prohibit a jury trial for suits originally filed in parish or city court, except for tort suits, when the amount in controversy does not exceed the parish or city court's jurisdictional limit.

3. Provide that if a party fails to file a motion to transfer from a parish or city court to district court within the delays provided by law, the matter shall not be transferred.
4. Add that evidence of an agreement to pay medical expenses shall be admissible and provide that the trier of fact may use such evidence to determine, mitigate, or reduce the amount of damages.
5. Add that in a claim for medical expenses, the court shall allow the introduction of all admissible evidence of the payment of medical expenses and that such evidence shall be considered in calculating damages.
6. Make technical changes.