

ASSEMBLY BILL NO. 466—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

MARCH 28, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing jury trials in justices' courts. (BDR 3-518)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the judiciary; requiring the Nevada Supreme Court to adopt rules and procedures for jury trials in certain civil actions in justices' courts that are designed to limit the length of such trials; reducing the maximum number of jurors who may serve on a jury in a civil action in a justice's court; reducing the number of peremptory challenges that each party is entitled to use in a civil action in a justice's court; repealing provisions concerning the establishment of a mandatory short trial program for certain civil actions in justices' courts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Supreme Court to adopt rules for establishing a mandatory short trial program to resolve certain types of civil disputes in justices' courts. (NRS 38.257) A short trial means a trial that is conducted in accordance with procedures designed to limit the length of the trial, including: (1) restrictions on the amount of discovery requested by each party; (2) a jury composed of not more than six persons; and (3) limitations on the amount of time each party may use to present his case. (NRS 38.250, 38.257)

This bill repeals the requirement that the Supreme Court establish a mandatory short trial program for dispute resolution in certain types of civil cases in justices' courts. Instead, this bill requires the Supreme Court to adopt similar rules and procedures to limit the length of certain civil jury trials in justices' courts.

Existing law requires that a jury in a civil trial in justice's court consist of not more than eight persons. (NRS 67.020)



14 This bill reduces the number of persons who may serve on such a jury to not
15 more than six persons and not less than four persons.

16 Existing law allows each party to a civil trial in justice's court to make three
17 peremptory challenges. (NRS 67.030) A peremptory challenge means the party
18 may object to the selection of a juror without giving the reasons for his objection.

19 This bill reduces the number of peremptory challenges that a party may make in
20 a civil trial in justice's court to two.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 38.250 is hereby amended to read as follows:

2 38.250 1. Except as otherwise provided in NRS ~~38.257 and~~
3 38.310:

4 (a) All civil actions filed in district court for damages, if the
5 cause of action arises in the State of Nevada and the amount in issue
6 does not exceed \$40,000, must be submitted to nonbinding
7 arbitration in accordance with the provisions of NRS 38.250 to
8 38.259, inclusive, unless the parties have agreed to submit the action
9 to an alternative method of resolving disputes established by the
10 Supreme Court pursuant to NRS 38.258, including, without
11 limitation, a settlement conference, mediation or a binding short
12 trial, and that method has resulted in a binding disposition of the
13 action. If an action is submitted to an alternative method of
14 resolving disputes pursuant to this paragraph and a binding
15 disposition of the case does not result, the action must be submitted
16 to nonbinding arbitration, but the parties may agree to submit the
17 action to another alternative method of resolving disputes while the
18 nonbinding arbitration is pending or after the nonbinding arbitration
19 has been completed.

20 (b) A civil action for damages filed in justice's court may be
21 submitted to **binding** arbitration or to an alternative method of
22 resolving disputes, including, without limitation, a settlement
23 conference ~~[, mediation or a binding short trial,]~~ **or mediation**, if the
24 parties agree to the submission.

25 2. An agreement entered into pursuant to this section must be:

26 (a) Entered into at the time of the dispute and not be a part of
27 any previous agreement between the parties;

28 (b) In writing; and

29 (c) Entered into knowingly and voluntarily.

30 ➔ An agreement entered into pursuant to this section that does not
31 comply with the requirements set forth in this subsection is void.

32 3. As used in this section, "short trial" means a trial that is
33 conducted, with the consent of the parties to the action, in
34 accordance with procedures designed to limit the length of the trial,



1 including, without limitation, restrictions on the amount of
2 discovery requested by each party, the use of a jury composed of not
3 more than six persons, and a specified limit on the amount of time
4 each party may use to present his case.

5 **Sec. 2.** Chapter 67 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 *1. Except as otherwise provided in subsection 3, the Supreme*
8 *Court shall adopt rules and procedures for conducting trials by*
9 *jury in civil actions in the justices' courts that are designed to limit*
10 *the length of the trials.*

11 *2. The rules and procedures adopted pursuant to this section*
12 *may provide for:*

13 *(a) Restrictions on the amount of discovery requested by each*
14 *party;*

15 *(b) The use of a jury composed of not more than six persons*
16 *and not less than four persons; and*

17 *(c) A specified limit on the amount of time each party may use*
18 *to present his case.*

19 *3. This section does not apply to the following actions and*
20 *proceedings:*

21 *(a) Actions for the possession of lands and tenements where*
22 *the relation of landlord and tenant exists, when damages claimed*
23 *do not exceed \$10,000 or when no damages are claimed.*

24 *(b) Actions when the possession of lands and tenements has*
25 *been unlawfully or fraudulently obtained or withheld, when*
26 *damages claimed do not exceed \$10,000 or when no damages are*
27 *claimed.*

28 *(c) Any action for the issuance of a temporary or extended*
29 *order for protection against domestic violence.*

30 *(d) An action for the issuance of a temporary or extended*
31 *order for protection against harassment in the workplace pursuant*
32 *to NRS 33.200 to 33.360, inclusive.*

33 *(e) Small claims actions under the provisions of chapter 73 of*
34 *NRS.*

35 *(f) Any action pursuant to NRS 200.591 for the issuance of a*
36 *protective order against a person alleged to be committing the*
37 *crime of stalking, aggravated stalking or harassment.*

38 **Sec. 3.** NRS 67.020 is hereby amended to read as follows:

39 67.020 1. At the time appointed for the trial, the justice shall
40 proceed to call from the jurors summoned the names of the persons
41 to constitute the jury for the trial of the issue. If a sufficient number
42 of competent and indifferent jurors do not attend, the justice shall
43 direct that additional jurors sufficient to complete the jury be
44 summoned.



- 1 2. The jury, by consent of the parties, may consist of any
2 number not more than ~~eight nor~~ **six or** less than four.
- 3 **Sec. 4.** NRS 67.030 is hereby amended to read as follows:
4 67.030 The challenges are either peremptory or for cause. Each
5 party is entitled to ~~three~~ **two** peremptory challenges. Either party
6 may challenge for cause on any grounds set forth in NRS 16.050.
- 7 **Sec. 5.** NRS 38.257 is hereby repealed.
- 8 **Sec. 6.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

38.257 Adoption of rules by Supreme Court for establishment of mandatory short trial program for civil cases in justices' courts.

1. The Supreme Court shall adopt rules to provide for the establishment of a mandatory short trial program for civil cases in the justices' courts.

2. This section does not apply to the following actions and proceedings:

(a) Actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed \$10,000 or when no damages are claimed.

(b) Actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$10,000 or when no damages are claimed.

(c) Any action for the issuance of a temporary or extended order for protection against domestic violence.

(d) An action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(e) Small claims actions under the provisions of chapter 73 of NRS.

(f) Any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

3. As used in this section, "short trial" means a trial that is conducted in accordance with procedures designed to limit the length of the trial, including, without limitation, restrictions on the amount of discovery requested by each party, the use of a jury composed of not more than six persons, and a specified limit on the amount of time each party may use to present his case.

