

ASSEMBLY BILL NO. 468—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

MARCH 28, 2005

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Referred to Committee on Judiciary

**SUMMARY**—Makes various changes to provisions regarding arbitration and other alternative methods of resolving disputes in certain civil actions. (BDR 2-523)

**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.

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AN ACT relating to civil actions; revising the criteria for determining whether a case must be submitted to arbitration; revising provisions concerning the use of alternative dispute regulation; increasing the maximum number of jurors who may serve on the jury for a short trial in district court; 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:**

- 1 Under existing law, certain fees collected by the county clerk for filing a civil
- 2 action are deposited by the county treasurer into an account for programs of
- 3 arbitration in the county general fund. (NRS 19.0315)
- 4 This bill changes the description of the account to an account for programs for
- 5 alternative dispute resolution and provides that money in the account may be used



\* A B 4 6 8 R 1 \*

6 to support programs for arbitration and programs for the resolution of disputes  
7 through the use of other alternative methods of resolving disputes.

8 Under existing law, certain civil actions filed in district court where the amount  
9 in issue is \$40,000 or less must be submitted to nonbinding arbitration unless the  
10 parties agree to an alternative method of resolving disputes, which may include a  
11 binding short trial. (NRS 38.250, 38.255, 38.258)

12 This bill increases the threshold amount for submitting an action in district  
13 court to nonbinding arbitration to \$50,000 for each plaintiff, excluding attorney's  
14 fees, interest and court costs. This bill also increases the maximum number of  
15 persons who may serve as jurors in a short trial to eight persons. This bill further  
16 removes the requirement that a civil action that is submitted to a short trial in  
17 district court be binding, thereby allowing such an action to be appealed.

18 Existing law requires the Nevada Supreme Court to adopt rules for establishing  
19 a mandatory short trial program to resolve certain types of civil disputes in justices'  
20 courts. (NRS 38.257)

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

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

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

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

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

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

1 **Section 1.** NRS 19.0315 is hereby amended to read as follows:

2 19.0315 1. Except as otherwise provided in NRS 19.034, on  
3 the commencement of any civil action or proceeding in the district  
4 court for which a filing fee is required, and on the filing of any  
5 answer or appearance in any such action or proceeding for which a  
6 filing fee is required, the county clerk shall charge and collect a fee  
7 of \$5 from the party commencing, answering or appearing in the  
8 action or proceeding. These fees are in addition to any other fee  
9 required by law.

10 2. On or before the first Monday of each month, the county  
11 clerk shall pay over to the county treasurer the amount of all fees  
12 collected by him pursuant to subsection 1 for credit to an account  
13 for programs ~~[of arbitration]~~ *for alternative dispute resolution*  
14 in the county general fund. The money in the account must be used  
15 only to support programs for the arbitration of civil actions pursuant  
16 to NRS 38.250 ~~[and]~~ *and programs for the resolution of disputes*



1 *through the use of other alternative methods of resolving disputes*  
2 *pursuant to NRS 38.258.*

3 3. The provisions of this section apply only in judicial districts  
4 in which a program ~~[of arbitration]~~ *for alternative dispute*  
5 *resolution* has been established pursuant to NRS 38.250 ~~[.]~~ *or*  
6 *38.258.*

7 4. *As used in this section, "alternative dispute resolution"*  
8 *means alternative methods of resolving disputes, including,*  
9 *without limitation, arbitration and mediation.*

10 **Sec. 2.** NRS 38.250 is hereby amended to read as follows:

11 38.250 1. Except as otherwise provided in NRS ~~[38.257 and]~~  
12 38.310:

13 (a) All civil actions filed in district court for damages, if the  
14 cause of action arises in the State of Nevada and the amount in issue  
15 does not exceed ~~[\$40,000,]~~ *\$50,000 per plaintiff, exclusive of*  
16 *attorney's fees, interest and court costs,* must be submitted to  
17 nonbinding arbitration in accordance with the provisions of NRS  
18 38.250 to 38.259, inclusive, unless the parties have agreed *or are*  
19 *otherwise required* to submit the action to an alternative method of  
20 resolving disputes established by the Supreme Court pursuant to  
21 NRS 38.258, including, without limitation, a settlement conference,  
22 mediation or a ~~[binding]~~ short trial . ~~[, and that method has resulted~~  
23 ~~in a binding disposition of the action. If an action is submitted to an~~  
24 ~~alternative method of resolving disputes pursuant to this paragraph~~  
25 ~~and a binding disposition of the case does not result, the action must~~  
26 ~~be submitted to nonbinding arbitration, but the parties may agree to~~  
27 ~~submit the action to another alternative method of resolving disputes~~  
28 ~~while the nonbinding arbitration is pending or after the nonbinding~~  
29 ~~arbitration has been completed.]~~

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

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

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

38 (b) In writing; and

39 (c) Entered into knowingly and voluntarily.

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

42 3. As used in this section, "short trial" means a trial that is  
43 conducted, with the consent of the parties to the action, in  
44 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.]~~ *eight persons* and a specified limit on the  
4 amount of time each party may use to present his case.

5 **Sec. 3.** NRS 38.255 is hereby amended to read as follows:

6 38.255 1. The rules adopted by the Supreme Court pursuant  
7 to NRS 38.253 to provide guidelines for the establishment by a  
8 district court of a program must include provisions for a:

9 (a) Mandatory program for the arbitration of civil actions  
10 pursuant to NRS 38.250.

11 (b) Voluntary program for the arbitration of civil actions if the  
12 cause of action arises in the State of Nevada and the amount in issue  
13 exceeds ~~[\$40,000.]~~ *\$50,000 per plaintiff, exclusive of attorney's*  
14 *fees, interest and court costs.*

15 (c) Voluntary program for the use of binding arbitration in all  
16 civil actions.

17 2. The rules must provide that the district court of any judicial  
18 district whose population is 100,000 or more:

19 (a) Shall establish programs pursuant to paragraphs (a), (b) and  
20 (c) of subsection 1.

21 (b) May set fees and charge parties for arbitration if the amount  
22 in issue exceeds ~~[\$40,000.]~~ *\$50,000 per plaintiff, exclusive of*  
23 *attorney's fees, interest and court costs.*

24 ➤ The rules may provide for similar programs for the other judicial  
25 districts.

26 3. The rules must exclude the following from any program of  
27 mandatory arbitration:

28 (a) Actions in which the amount in issue, excluding attorney's  
29 fees, interest and court costs, is more than ~~[\$40,000]~~ *\$50,000* or less  
30 than the maximum jurisdictional amounts specified in NRS 4.370  
31 and 73.010;

32 (b) Class actions;

33 (c) Actions in equity;

34 (d) Actions concerning the title to real estate;

35 (e) Probate actions;

36 (f) Appeals from courts of limited jurisdiction;

37 (g) Actions for declaratory relief;

38 (h) Actions involving divorce or problems of domestic relations;

39 (i) Actions brought for relief based on any extraordinary writs;

40 (j) Actions for the judicial review of an administrative decision;

41 ~~{and}~~

42 (k) Actions in which the parties, pursuant to a written agreement  
43 executed before the accrual of the cause of action ~~[ ]~~ *or pursuant to*  
44 *rules adopted by the Supreme Court* have submitted the



1 controversy to arbitration or any other alternative method for  
2 resolving a dispute ~~H~~;

3 *(l) Actions that present unusual circumstances that constitute*  
4 *good cause for removal from the program;*

5 *(m) Actions in which any of the parties is incarcerated; and*

6 *(n) Actions submitted to mediation pursuant to rules adopted*  
7 *by the Supreme Court.*

8 4. The rules must include:

9 (a) Provisions for the payment of fees to an arbitrator who is  
10 appointed to hear a case pursuant to the rules. The rules must  
11 provide that an arbitrator must be compensated at a rate of \$100 per  
12 hour, to a maximum of \$1,000 per case, unless otherwise authorized  
13 by the arbitration commissioner for good cause shown.

14 (b) Guidelines for the award of attorney's fees and maximum  
15 limitations on the costs to the parties of the arbitration.

16 (c) Disincentives to appeal.

17 (d) Provisions for trial upon the exercise by either party of his  
18 right to a trial anew after the arbitration.

19 5. The Supreme Court shall, on or before February 1 of each  
20 odd-numbered year, submit a report to the Director of the  
21 Legislative Counsel Bureau for transmittal to the Chairmen of the  
22 Assembly and Senate Standing Committees on ~~the~~ Judiciary. The  
23 report must include, for the period since the previous such report, if  
24 any:

25 (a) A listing of the number of actions which were submitted to  
26 arbitration or other alternative methods of resolving disputes  
27 pursuant to NRS 38.250 or 38.258 and their manner of disposition;

28 (b) A statement of the amount of money collected in each  
29 judicial district pursuant to NRS 19.0315 and a summary of the  
30 manner in which the fees were expended; and

31 (c) Any recommendations for legislation or other information  
32 regarding the programs on arbitration deemed relevant by the  
33 Supreme Court.

34 **Sec. 4.** NRS 38.258 is hereby amended to read as follows:

35 38.258 1. The Supreme Court may authorize the use of  
36 settlement conferences and other alternative methods of resolving  
37 disputes, including, without limitation, mediation and a ~~binding~~  
38 short trial, that are available in the county in which a district court is  
39 located:

40 (a) In lieu of submitting an action to nonbinding arbitration  
41 pursuant to NRS 38.250; *or*

42 ~~(b) [After an action is submitted to nonbinding arbitration~~  
43 ~~because an alternative method of resolving disputes did not result in~~  
44 ~~a binding disposition of the action; or~~



1 ~~—(e) At any other time during~~ *During* or following *such*  
2 nonbinding arbitration if the parties agree that the use of any such  
3 alternative methods of resolving disputes would assist in the  
4 resolution of the dispute.

5 2. If the Supreme Court authorizes the use of an alternative  
6 method of resolving disputes pursuant to subsection 1, the Supreme  
7 Court shall adopt rules and procedures to govern the use of any such  
8 method.

9 3. As used in this section, “short trial” has the meaning  
10 ascribed to it in NRS 38.250.

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

13 *1. Except as otherwise provided in subsection 3, the Supreme*  
14 *Court shall adopt rules and procedures for conducting trials by*  
15 *jury in civil actions in the justices’ courts that are designed to limit*  
16 *the length of trials.*

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

19 *(a) Restrictions on the amount of discovery requested by each*  
20 *party;*

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

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

25 *3. This section does not apply to:*

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

29 *(b) An action when the possession of lands and tenements has*  
30 *been unlawfully or fraudulently obtained or withheld, when*  
31 *damages claimed do not exceed \$10,000 or when no damages are*  
32 *claimed.*

33 *(c) An action for the issuance of a temporary or extended*  
34 *order for protection against domestic violence.*

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

38 *(e) A small claims action brought under the provisions of*  
39 *chapter 73 of NRS.*

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



- 1     **Sec. 6.** NRS 67.020 is hereby amended to read as follows:  
2     67.020   1. At the time appointed for the trial, the justice shall  
3     proceed to call from the jurors summoned the names of the persons  
4     to constitute the jury for the trial of the issue. If a sufficient number  
5     of competent and indifferent jurors do not attend, the justice shall  
6     direct that additional jurors sufficient to complete the jury be  
7     summoned.  
8     2. ~~[The jury, by consent of the parties,]~~ *Pursuant to the Justice*  
9     *Court Rules of Civil Procedure adopted by the Supreme Court, the*  
10    *jury* may consist of any number not more than ~~[eight]~~ *six* nor less  
11    than four.  
12    **Sec. 7.** NRS 67.030 is hereby amended to read as follows:  
13    67.030   The challenges are either peremptory or for cause. Each  
14    party is entitled to ~~[three]~~ *two* peremptory challenges. Either party  
15    may challenge for cause on any grounds set forth in NRS 16.050.  
16    **Sec. 8.** NRS 38.257 is hereby repealed.  
17    **Sec. 9.** This act becomes effective upon passage and approval.

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## TEXT OF REPEALED SECTION

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### **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.

