

HB 419 INTRODUCED BY SPAETH
REQUIRE SIX-PERSON JURIES IN CRIMINAL AND CIVIL CASES
TRIED IN DISTRICT COURT

1/23 INTRODUCED
1/23 REFERRED TO JUDICIARY
1/24 FISCAL NOTE REQUESTED
1/30 FISCAL NOTE RECEIVED
2/05 HEARING
FAILED TO MEET TRANSMITTAL DEADLINE

1 House BILL NO. 419
2 INTRODUCED BY SPZAH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A TRIAL JURY
5 IN ANY CIVIL OR CRIMINAL CASE TRIED IN DISTRICT COURT TO
6 CONSIST OF SIX PERSONS; REDUCING THE NUMBER OF PEREMPTORY
7 CHALLENGES TO JURORS TO REFLECT THE REDUCTION IN THE NUMBER
8 OF JURORS; AND AMENDING SECTIONS 3-15-106, 25-7-205,
9 25-7-224, 46-16-102, 46-16-301, AND 46-16-305, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 3-15-106, MCA, is amended to read:

13 "3-15-106. Number of a trial jury. ~~{1}~~ A trial jury in
14 district court consists of ~~12~~ six persons, ~~provided that,~~ in
15 both civil actions and criminal cases of misdemeanor, it may
16 ~~consist of 12 or any number less than 12 upon which the~~
17 ~~parties may agree in open court.~~

18 ~~{2} in all civil actions where the relief asked for in~~
19 ~~the complaint is under the sum of \$10,000, a trial jury may~~
20 ~~in the discretion of the trial judge, consist of six persons~~
21 ~~and two thirds of the jury may render a verdict."~~

22 Section 2. Section 25-7-205, MCA, is amended to read:

23 "25-7-205. Persons drawn and approved to form jury.
24 The first ~~12~~ six persons, ~~or such other number as will~~
25 ~~constitute the jury;~~ who appear, as their names are drawn

1 and called, and are approved as indifferent between the
2 parties and not discharged or excused must be sworn and
3 constitute the jury to try the issue."

4 Section 3. Section 25-7-224, MCA, is amended to read:

5 "25-7-224. Peremptory challenges to jurors. (1) Each
6 party is entitled to ~~four~~ two peremptory challenges, ~~except~~
7 ~~as provided for under subsection {2}.~~

8 ~~{2} When a six person jury is authorized by law, each~~
9 ~~side shall have two peremptory challenges. When the parties~~
10 ~~agree upon a jury consisting of a number of persons other~~
11 ~~than 6 or 12, they shall also agree in open court, with the~~
12 ~~approval of the court, upon the number of peremptory~~
13 ~~challenges to be allowed, not to exceed four.~~

14 ~~{3}{2}~~ Peremptory challenges shall be taken as
15 provided in Rule 47(b), M.R.Civ.P."

16 Section 4. Section 46-16-102, MCA, is amended to read:

17 "46-16-102. Right to jury trial -- waiver. (1)
18 Defendants in all criminal cases shall have a right to trial
19 by a jury not to exceed ~~12~~ in number. ~~The parties may agree~~
20 ~~in writing at any time before the verdict, with the approval~~
21 ~~of the court, that the jury shall consist of any number less~~
22 ~~than 12 consisting of six persons.~~

23 (2) Upon written consent of the parties, a trial by
24 jury may be waived."

25 Section 5. Section 46-16-301, MCA, is amended to read:



1 "46-16-301. Formation of trial jury. (1) Trial juries
2 for criminal actions are formed in the same manner as trial
3 juries in civil actions, ~~except that the total number of~~
4 ~~jurors drawn shall be at least 12 plus the total number of~~
5 ~~peremptory challenges.~~

6 (2) The qualifications of jurors and excuses from jury
7 duty are prescribed in Title 3, chapter 15, part 3."

8 Section 6. Section 46-16-305, MCA, is amended to read:

9 "46-16-305. Peremptory challenges. Each defendant
10 shall be allowed eight four peremptory challenges in capital
11 cases, six three in all other cases tried in the district
12 court ~~before a 12-person jury~~. There may not be additional
13 challenges for separate counts charged in the indictment or
14 information. If the indictment or information charges a
15 capital offense as well as lesser offenses in separate
16 counts, the maximum number of challenges is eight four. The
17 state shall be allowed the same number of peremptory
18 challenges as all of the defendants. ~~in a criminal case~~
19 ~~tried in the district court before a six-person jury, the~~
20 ~~state and all the defendants shall be allowed three~~
21 ~~peremptory challenges each. When the parties in a criminal~~
22 ~~case in the district court agree upon a jury consisting of a~~
23 ~~number of persons other than 6 or 12, they shall also agree~~
24 ~~in writing upon the number of peremptory challenges to be~~
25 ~~allowed."~~

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB419, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring a trial jury in any civil or criminal case tried in District Court to consist of six persons; reducing the number of peremptory challenges to jurors to reflect the reduction in the number of jurors; and amending Sections 3-15-106, 25-7-205, 25-7-224, 46-16-102, 46-16-301, and 46-16-305, MCA.

ASSUMPTIONS:

1. Actual District Court reimbursements for FY86 jury costs - criminal cases - will be applicable for FY88 and FY89.
2. Jury costs for civil case trials are minimal.
3. State reimbursements to District Courts will continue to be made from the general fund.

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
State District Court						
Reimbursement	\$230,052	\$115,026	\$115,026	\$230,052	\$115,026	\$115,026

Funding Source: General Fund

David L. Hunter DATE 1/30/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Gary Spaeth DATE 2 Feb 87
 GARY SPAETH, PRIMARY SPONSOR

Fiscal Note for HB419, as introduced

HB-419