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SENATE BILL NO. 133

INTRODUCED BY Christaena Pizala - Hester Hagan

A BILL FOR AN ACT ENTITLED: "AN ACT DECREASING FROM 12 TO 9 THE NUMBER OF JURORS AND FROM 4 TO 3 THE NUMBER OF PEREMPTORY CHALLENGES IN A CIVIL ACTION; REQUESTING THE MONTANA SUPREME COURT TO AMEND THE MONTANA RULES OF CIVIL PROCEDURE TO CONFORM THEM TO THIS ACT; AMENDING SECTIONS 3-15-106, 25-7-205, AND 25-7-224, MCA; AND PROVIDING FOR A CONTINGENT EFFECTIVE DATE AND CONTINGENT VOIDNESS."

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

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

"3-15-106. Number of a trial jury. (1) A trial jury consists of 12 persons in a criminal action and 9 persons in a civil action or, with the approval of the court, it may consist of any smaller number ~~less than~~ ~~12~~ upon which the parties agree in open court.

(2) In all civil actions ~~where~~ in which the relief asked for in the complaint is under ~~the sum of~~ \$10,000, a trial jury may, in the discretion of the trial judge, consist of six persons and two-thirds of the jury may render a verdict."

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

"25-7-205. Persons drawn and approved to form jury. The first ~~12~~ nine persons, or ~~such~~ any other number ~~as~~ that will constitute the jury, who appear, as their names are drawn and called, and who are approved as indifferent between the parties and not discharged or excused must be sworn and constitute the jury to try the issue."

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

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

(2) When a six-person jury is authorized by law, each side shall have two peremptory challenges. When the parties agree upon a jury consisting of a number of persons other than ~~6~~ six or ~~12~~ nine, they shall

1 also agree in open court, with the approval of the court, upon the number of peremptory challenges to be
2 allowed, not to exceed ~~four~~ three.

3 (3) Peremptory challenges ~~shall~~ must be taken as provided in Rule 47(b), ~~M.R.Civ.P~~ Montana Rules
4 of Civil Procedure."

5

6 **NEW SECTION. Section 4. Contingent effective date and contingent voidness -- request to amend**
7 **rules.** (1) [This act] is effective on the effective date of a Montana supreme court order amending Rules
8 47 through 49 of the Montana Rules of Civil Procedure to conform them to the provisions of [this act].

9 (2) If the Montana supreme court does not amend Rules 47 through 49 of the Montana Rules of
10 Civil Procedure to conform them to the provisions of [this act] by June 1, 1997, [this act] is void.

11 (3) The legislature requests that the Montana supreme court amend Rules 47 through 49 of the
12 Montana Rules of Civil Procedure to conform them to the provisions of [this act].

13

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0133, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act decreasing from 12 to 9 the number of jurors and from 4 to 3 the number of peremptory challenges in a civil action.

ASSUMPTIONS:

1. The average jury panel presently consists of 24 persons.
2. The average civil trial lasts 4 days.

FISCAL IMPACT:

Passage of SB0133 will have no fiscal impact on state government.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Statistics on the number of civil trials with juries, and the number of members of the jury are not available. However, the savings for the average 4-day civil trial would be approximately \$500.

Dave Lewis 1-18-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

B.F. Christiaens
B.F. CHRISTIAENS, PRIMARY SPONSOR DATE

Fiscal Note for SB0133, as introduced

SB 133

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- SENATE BILL NO. 133

INTRODUCED BY Christiana Perzile - Stevel Hagener

A BILL FOR AN ACT ENTITLED: "AN ACT DECREASING FROM 12 TO 9 THE NUMBER OF JURORS AND FROM 4 TO 3 THE NUMBER OF PEREMPTORY CHALLENGES IN A CIVIL ACTION; REQUESTING THE MONTANA SUPREME COURT TO AMEND THE MONTANA RULES OF CIVIL PROCEDURE TO CONFORM THEM TO THIS ACT; AMENDING SECTIONS 3-15-106, 25-7-205, AND 25-7-224, MCA; AND PROVIDING FOR A CONTINGENT EFFECTIVE DATE AND CONTINGENT VOIDNESS."

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

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

"**3-15-106. Number of a trial jury.** (1) A trial jury consists of 12 persons in a criminal action and 9 persons in a civil action or, with the approval of the court, it may consist of any smaller number ~~less than~~ ~~12~~ upon which the parties agree in open court.

(2) In all civil actions ~~where~~ in which the relief asked for in the complaint is under ~~the sum of~~ \$10,000, a trial jury may, in the discretion of the trial judge, consist of six persons and two-thirds of the jury may render a verdict."

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

"**25-7-205. Persons drawn and approved to form jury.** The first ~~12~~ nine persons, or ~~such~~ any other number ~~as~~ that will constitute the jury, who appear, as their names are drawn and called, and who are approved as indifferent between the parties and not discharged or excused must be sworn and constitute the jury to try the issue."

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

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

(2) When a six-person jury is authorized by law, each side shall have two peremptory challenges. When the parties agree upon a jury consisting of a number of persons other than ~~6~~ six or ~~12~~ nine, they shall



1 also agree in open court, with the approval of the court, upon the number of peremptory challenges to be
2 allowed, not to exceed ~~four~~ three.

3 (3) Peremptory challenges ~~shall~~ must be taken as provided in Rule 47(b), M.R.Civ.P Montana Rules
4 of Civil Procedure."

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8 47 through 49 of the Montana Rules of Civil Procedure to conform them to the provisions of [this act].

9 (2) If the Montana supreme court does not amend Rules 47 through 49 of the Montana Rules of
10 Civil Procedure to conform them to the provisions of [this act] by June 1, 1997, [this act] is void.

11 (3) The legislature requests that the Montana supreme court amend Rules 47 through 49 of the
12 Montana Rules of Civil Procedure to conform them to the provisions of [this act].

13

-END-

1 SENATE BILL NO. 133

2 INTRODUCED BY CHRISTIAENS, TROPILA, HERTEL, HAGENER

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DECREASING FROM 12 TO 9 THE NUMBER OF JURORS ~~AND~~
 5 IN CIVIL ACTIONS UNLESS CERTAIN CONDITIONS ARE MET; DECREASING FROM 4 TO 3 THE NUMBER
 6 OF PEREMPTORY CHALLENGES IN A CIVIL ACTION; REQUESTING THE MONTANA SUPREME COURT TO
 7 AMEND THE MONTANA RULES OF CIVIL PROCEDURE TO CONFORM THEM TO THIS ACT; AMENDING
 8 SECTIONS 3-15-106, 25-7-205, AND 25-7-224, MCA; AND PROVIDING FOR A CONTINGENT EFFECTIVE
 9 DATE AND CONTINGENT VOIDNESS."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 **Section 1.** Section 3-15-106, MCA, is amended to read:

14 "3-15-106. **Number of a trial jury.** (1) (A) A trial jury consists of 12 persons in a criminal action
 15 and 9 persons in a civil action or, with the approval of the court, it may consist of any smaller number less
 16 ~~than 12~~ upon which the parties agree in open court.

17 (B) A TRIAL JURY CONSISTS OF 9 PERSONS IN A CIVIL ACTION OR:18 (I) MAY CONSIST OF 12 PERSONS FOR GOOD CAUSE SHOWN; OR19 (II) MAY CONSIST OF ANY SMALLER NUMBER UPON WHICH THE PARTIES AGREE IN OPEN
20 COURT.

21 (2) In all civil actions ~~where~~ in which the relief asked for in the complaint is under ~~the sum of~~
 22 \$10,000, a trial jury may, in the discretion of the trial judge, consist of six persons and two-thirds of the
 23 jury may render a verdict."

24
25 **Section 2.** Section 25-7-205, MCA, is amended to read:

26 "25-7-205. **Persons drawn and approved to form jury.** The first ~~12~~ nine persons, or ~~such~~ any other
 27 number as that will constitute the jury, who appear, as their names are drawn and called, and who are
 28 approved as indifferent between the parties and not discharged or excused must be sworn and constitute
 29 the jury to try the issue."

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

2 "**25-7-224. Peremptory challenges to jurors.** (1) Each party is entitled to ~~four~~ three peremptory
3 challenges, except as provided for under subsection (2).

4 (2) When a six-person jury is authorized by law, each side shall have two peremptory challenges.
5 When the parties agree upon a jury consisting of a number of persons other than ~~6 six or 12 nine~~, they shall
6 also agree in open court, with the approval of the court, upon the number of peremptory challenges to be
7 allowed, not to exceed ~~four~~ three.

8 (3) Peremptory challenges ~~shall~~ must be taken as provided in Rule 47(b), ~~M.R.Civ.P~~ Montana Rules
9 of Civil Procedure."

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11 **NEW SECTION. Section 4. Contingent effective date and contingent voidness -- request to amend**
12 **rules.** (1) [This act] is effective on the effective date of a Montana supreme court order amending Rules
13 47 through 49 of the Montana Rules of Civil Procedure to conform them to the provisions of [this act].

14 (2) If the Montana supreme court does not amend Rules 47 through 49 of the Montana Rules of
15 Civil Procedure to conform them to the provisions of [this act] by June 1, 1997, [this act] is void.

16 (3) The legislature requests that the Montana supreme court amend Rules 47 through 49 of the
17 Montana Rules of Civil Procedure to conform them to the provisions of [this act].

18

-END-