

# **SUPREME COURT OF LOUISIANA**

## **REPORT**

*To The*

## **LOUISIANA LEGISLATURE**

*In Response To*

## **HOUSE RESOLUTION NO. 156 OF THE 2014 REGULAR LEGISLATIVE SESSION**



**April 3, 2015**

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# **SUPREME COURT OF LOUISIANA**

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## **Report in Response to House Resolution 156 (2014 - Representative Patrick Connick)**

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### **I. Introduction and background**

During the 2014 Regular Session, the Legislature passed House Resolution No. 156 which urged and requested the Louisiana Supreme Court to study extending the prescriptive periods for delictual actions, to compile data relative to Louisiana's monetary threshold for a civil jury trial, and to submit a written report of the findings to the Legislature prior to the beginning of the 2015 Regular Session. HR 156 asked the Supreme Court to compile public data to provide a comprehensive picture of jury trials in Louisiana in consultation with the Louisiana Clerks of Court Association, the Louisiana District Attorney Association, the Louisiana District Judges Association, the Department of Insurance, the Louisiana Association of Justice and the Louisiana Association of Defense Attorneys. *See Exhibit 1.*

In response, the Louisiana Supreme Court, through the office of the Judicial Administrator, assembled a committee of internal staffers to prepare the requested report. The committee realized that the depth and breadth of information requested by the Legislature would be difficult to compile because the Court was neither the custodian of much of the information, nor had access to some information. Accordingly, representatives of the Louisiana Supreme Court, including Justice Greg Guidry, met with the Honorable Patrick Connick, the author of the resolution, to explain the limitations on obtaining the information requested in the bill.

The Court's internal committee worked over several months to conduct the research requested, and to compile the data that was available. In accordance with the provisions of HR 156, the Committee contacted representatives of the Louisiana Clerks of Court Association, the Louisiana District Attorney Association, the Louisiana District Judges Association, the Department of Insurance, the Louisiana Association of Justice and the Louisiana Association of Defense Attorneys to request their assistance in obtaining the requested data. The Executive Director of the Louisiana Clerks of Court Association, Ms. Debbie D. Hudnall, responded in part "The Louisiana Clerks of Court Association doesn't have the data requested available to us." Likewise, the Executive Director of the Louisiana District Attorneys Association responded "The LDAA has no data on the listed issues." No responses were received from the Department of Insurance, the Louisiana Association of

Justice, and the Louisiana Association of Defense Attorneys. We therefore concluded that they did not have any responsive information.

In response to our inquiry, the Louisiana District Judges Association contacted district judges, many of whom responded with substantive information, and such information is included in this report.

The findings show that Louisiana is near the median with respect to the level of compensation paid to civil jurors. Louisiana falls in line with half of the country by charging a fee for demanding a trial by jury. In Louisiana, the local clerks of court are responsible for compensating jurors from their budgets.

Unlike the U.S. Constitution, Louisiana's original Constitution of 1812 did not include a right to civil jury trial. To this day, Louisiana is only one of two (2) states with a state constitution that does not explicitly guarantee a right to a civil jury trial. Research cites the use of a jury as "hostile" to civilian principles; and whereas the civilian tradition emphasizes the role of learned judges, juries often derogate from legal principles to accommodate lay notions of equity and justice. Nonetheless, Louisiana has incorporated civil juries into its civilian system for well over a century.

Since 2010, there has been a markedly downward trend for all civil lawsuits filed in Louisiana at the district court level, as well as the city and parish court levels. However, this trend is not unique to Louisiana, and has been occurring nationally. Reports from 2004 find that civil jury trials in the United States declined significantly for a number of reasons, including the increasing use of mediation and other alternative dispute resolution methods, trial expenses for preparing a case and conducting a trial, and the amount of time it takes to bring a case to trial.<sup>1</sup>

Below are each of the questions from HR 156, followed by the Court's specific findings in response to each question.

**II. The number of civil lawsuits filed in Louisiana below the fifty thousand dollar threshold for a civil jury trial, by court of jurisdiction**

In nearly every jurisdiction, and as reflected through the specific responses received from several district courts, the local clerk of courts' computer software does not designate filing categories for dollar threshold amounts. Therefore, this information was not readily

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<sup>1</sup> Marc Galanter, *The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts*, Journal of Empirical Legal Studies, Vol. 1 (3), pp. 506-521 (November 2004).

available and could only be accessed by physical examination of each and every civil court Petition for Damages, which was essentially an insurmountable task with the limited time and resources allowed.

Although the number of civil lawsuits filed below the fifty-thousand dollar threshold could not be obtained, attached is a chart providing the number of civil jury trials statewide. See **Exhibit 2**. As seen in Exhibit 2, the highest number of reported civil jury trials was 899 in the year 1986, while the lowest number of reported civil jury trials was 197 in 2008. The graph clearly shows that the number of civil jury trials has steadily decreased since the early 1990's, particularly after the year 1993.

### **III. The number of civil lawsuits filed in Louisiana for the last six years**

Below is a chart of all civil case filings from 2007-2013, as reported to the Louisiana Supreme Court.

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
City and Parish Courts	74,851	83,668	89,770	92,167	84,320	83,998	83,581
District Courts	156,047	149,910	154,126	154,796	141,047	134,686	128,739
Courts of Appeal*	3,824	3,749	3,632	3,432	3,550	3,441	3,246
Supreme Court **	1,276	1,319	1,276	1,300	1,230	1,311	1,152
Total	235,998	238,646	248,804	251,695	230,147	223,436	216,718

\*Cases include appeals, motions, and writs filed

\*\*Cases include appeals, writs, original jurisdiction petitions and other matters filed

Based on the chart above, since 2010 there has been a markedly downward trend for all civil lawsuits filed at the district court level, as well as the city and parish court levels.

Attached as **Exhibit 3**, is a chart showing the number of civil and criminal jury trials together. As seen in the chart, the number of criminal jury trials has been substantially higher than the number of civil jury trials since 1981. However, the number of criminal jury trials has been in decline since 1998, except for a brief period of 2008-2011. Even at the lowest point, in 2013, there were 248 civil jury trials and 636 criminal jury trials statewide, for a total of 844 jury trials.

**IV. The number of persons receiving notice to serve on a jury, the number of persons responding to a notice to serve on a jury, the percentage of eligible jurors actually impaneled, and the average length of service, by court of jurisdiction**

While much of the requested information was not available to the Supreme Court and most of the district courts, several district court judges responded with substantive information as follows.

The 4<sup>th</sup> Judicial District Court reported that 24,150 people received notice to serve on a criminal or civil jury trial for the past three (3) years (8,225 annually). The average number of people who responded to jury subpoena annually was 5,820.

Ouachita Parish reported that in 2012, 254 criminal jurors were sworn to serve (28 grand jurors sworn), and six (6) civil jury trials – 81 civil jurors sworn to serve. In 2013, 207 criminal jurors were sworn to serve (28 grand jurors sworn). There were seven (7) civil jury trials, with 93 civil jurors sworn to serve. In 2014, 214 criminal jurors were sworn to serve (28 grand jurors sworn). There were four (4) civil jury trials, with 93 civil jurors sworn to serve. The average length of services was 4.5 days.

Morehouse Parish reported the percentage of persons actually impaneled to be 40%. There was one (1) civil jury trial in 2012, one (1) in 2013 and zero (0) in 2014. The average length of services was 2-3 days.

The 15<sup>th</sup> Judicial District Court reported that 300 people were summoned to serve (jury pool includes persons to serve on both criminal and civil juries). 105 people (35%) responded to summons. 17% of eligible jurors were impaneled in 1-2 juries selected out of every pool. The average length of service was 2-3 days.

The 20<sup>th</sup> Judicial District Court reported that 150 is the average number of people receiving notice to serve on each criminal and civil jury term, and 12% of eligible jurors are generally impaneled. There is no central jury pool. There are six (6) criminal jury terms, each lasting one week, per year in each parish. A separate venire is selected for each jury term and for each civil jury trial. Three (3) days is the average length of service for a criminal or civil jury trial.

The 29<sup>th</sup> Judicial District Court reported that the number of people who received notice to serve on a jury in 2014 was 8,200, and in 2013 it was 9,600. The number of people who responded to a notice to serve on a jury in 2014 was 813, in 2013 it was 1,007, and in 2012 it was 1,011. On average, jury trials typically last 2-3 days.

The 38<sup>th</sup> Judicial District Court reported that 150 persons are sent a jury summons for each civil jury docket, 40% of those served respond to the jury subpoena, and 7.83 days was the average length of jury service.

Several other courts reported that obtaining this information given the limited resources would have been insurmountable, as it would have required reviewing paper files which include jury venire lists marked at roll call and noted as to service and number of days served.

V. **The last six years' total budget for each judicial district court, clerk of court, and sheriff and the percent of that budget that is intended and utilized to secure jurors for jury trials**

While much of the requested information was not available to the Supreme Court and most of the district courts, several district court judges responded with substantive information as follows:

The 15<sup>th</sup> Judicial District Court reported that jury costs are funded through a parish government line item titled, "Contractual Services." The budget makes no distinction between civil or criminal jury costs. Other non-jury costs that run through this line item include fees for law enforcement witnesses, interpreters, and expert witnesses:

<u>YEAR</u>	<u>BUDGET</u>	<u>ACTUAL</u>
2008-2009	\$286,600	\$196,932
2009-2010	\$250,000	\$180,412
2010-2011	\$290,000	\$362,046
2011-2012	\$285,500	\$292,907
2012-2013	\$292,500	\$303,152
2013-2014	\$480,000	\$252,043

The 29<sup>th</sup> Judicial District Court reported a specific line item for Juror Costs and Witness Fees. This amount is typically budgeted at \$24,000 in their District Court Operating Budget. This is roughly 5% of the budget of the 29<sup>th</sup> Judicial District Court.

The 38<sup>th</sup> Judicial District Court reported that the Cameron Parish Sheriff's Office is reimbursed from the Clerk of Court in the amount of \$20 per subpoena plus mileage executed to secure jurors. Neither agency was able to provide the court with an annual budget for this purpose.

Other courts have uniformly stated that the Clerk of Court and Sheriff do not include civil jury summons costs in their budget due to the fact that the party requesting the jury trial (the litigants) must advance the jury costs prior to the jury being summoned, and in accordance with the specific delays set forth in the Code of Civil Procedure.

**VI. The average estimated cost to public entities to commission and impanel a jury for the duration of a trial, by court of jurisdiction and by parish**

While much of the requested information was not available to the Supreme Court and most of the district courts, several district court judges responded with substantive information as follows:

The 4<sup>th</sup> Judicial District Court reported that over the course of nearly two (2) years, the total average Ouachita Parish Police Jury civil juror payments were \$1,960, the average number of jurors paid were 13.5, and the average days served by jurors was 4.2.

The 15<sup>th</sup> Judicial District Court estimated its costs to be \$5,816.31 for one jury trial. The 29<sup>th</sup> Judicial District Court estimated its costs to be \$3,440 for one jury trial.

The 20<sup>th</sup> Judicial District Court reported that the average estimated cost to public entities to commission and impanel a jury is \$10,000.

The 37<sup>th</sup> Judicial District Court (Caldwell Parish Jury Commission) reported that with regard to the average estimated cost to public entities to commission and impanel a jury for the duration of a trial, the Caldwell Parish Jury Commission is a panel of five (5) individuals from the community who meet approximately four (4) times per year to select the eleven (11) lists of 140 prospective jurors per year. The lists include five (5) civil jury terms per year. The members of the Commission are paid \$75 per meeting. Information regarding specific costs for issuing the jury summons, subpoenas, and for jury service is not budgeted because it is satisfied by the amount of the jury bond posted by the litigants.

Other courts reported that civil jury costs are paid by the litigants, and are not funded by public entities, while others reported that this information may be available through their local Police Jury, but were not able to provide this information.



**VII. The average jury bond or cash deposit paid by the requesting party for a civil jury trial and the number of instances and average amount of any refunds of unexpended amounts as required by law, by court of jurisdiction**

While much of the requested information was not available to the Supreme Court and most of the district courts, several district court judges responded with substantive information as follows:

The 4<sup>th</sup> Judicial District Court reported \$2,500 as the average jury bond for Morehouse Parish, and \$1,500-\$1,800 as the average jury bond for Ouachita Parish. Usually there are no refunds.

The 29<sup>th</sup> Judicial District Court reported \$4,600 as the total average jury bond. On average, there are no refunds of unexpended amounts.

The 16<sup>th</sup> Judicial District Court reported \$10,000 for Iberia Parish Clerk of Court; \$10,000 for St. Martin Parish Clerk of Court; and \$4,500 for St. Mary Parish Clerk of Court.

The 20<sup>th</sup> Judicial District Court reported \$7,500 as an average jury bond cost. Any refund of the jury bond depends on the time the trial is cancelled. Once the notices go out, the potential refund drops dramatically.

The 37<sup>th</sup> Judicial District Court reported that the average jury bond or cash deposit paid by the requesting party for a civil jury trial is between \$3,000 and \$5,000. The number of instances and average amount of any refunds of unexpended amounts as required by law is not available.

The 38<sup>th</sup> Judicial District Court reported \$3,600 as the average jury bond for a 1-week civil jury trial, \$5,600 as the average jury bond for a 2-week civil jury trial, and \$9,353.45 as the average jury costs for the last (6) six civil jury trials in Cameron Parish.

**VIII. The number of civil cases filed *in forma pauperis*, by court of jurisdiction**

While much of the requested information was not available to the Supreme Court and most of the district courts, several district court judges responded with substantive information as follows:

In the 4<sup>th</sup> Judicial District Court, Morehouse Parish reported approximately 40 cases are filed *in forma pauperis* each year. Ouachita Parish reported 275 cases filed *in forma pauperis* in last three years from hand counting the cases in the civil recording book.

The 38<sup>th</sup> Judicial District Court reported that thirty (30) cases were filed *in forma pauperis* in the last three (3) years.

Other jurisdictions reported that this information is not readily available.

**IX. The total amount owed to each court of jurisdiction due to *in forma pauperis* cases where records of all costs are required to be kept by law**

While much of the requested information was not available to the Supreme Court and most of the district courts, one district court responded with substantive information as follows:

The 4<sup>th</sup> Judicial District Court (Morehouse and Ouachita Parish totals combined) reported that \$374,312.35 was due to the Clerk of Court for *in forma pauperis* cases, with the notation that the Clerk's system does not print yearly amounts.

Other courts reported that the total amount owed for *in forma pauperis* filing is not readily available, as there was no method for calculating this amount.

**X. The number of civil cases transferred from courts of limited jurisdiction to judicial district court due to a request for a trial by jury pursuant to Civil Code of Procedure Article 4872**

While much of the requested information was not available to the Supreme Court and most of the district courts, several district court judges responded with substantive information as follows:

The 4<sup>th</sup> Judicial District Court reported that three (3) civil cases were transferred from courts of limited jurisdiction in the last three (3) years.

The 29<sup>th</sup> Judicial District Court reported that this number is zero (0) because the only inferior courts are Justice of the Peace Courts, which only have jurisdiction up to \$5,000 (for which a jury trial is not available). The 37<sup>th</sup> Judicial District Court reported that the number of civil cases transferred from limited jurisdiction courts due to request for trial by jury would be either zero or very low, because there is only a Clerk's Docket jurisdiction. City Courts in the Parish involve traffic citations only.

Other courts reported either that there is no tracking system for cases transferred from courts of limited jurisdictions, or that this information is not available.

## **XI. The funding sources used by other states to pay for civil jury trial**

Louisiana is near the median with respect to the level of compensation paid to civil jurors. Louisiana falls in line with half of the country by charging a fee for demanding a trial by jury. Furthermore, the fees collected appear to be higher for Louisiana litigants than elsewhere in the country. This point is illustrated by the fact that Louisiana has one of the highest three (3) filing fees in the nation for civil lawsuits in courts of general jurisdiction.<sup>2</sup> In Louisiana, local clerks of court are responsible for juror compensation, as opposed to twenty-one (21) other states wherein the state bears the burden of compensating jurors.

It is important to note that other state statutes are often vague and indistinct, making it difficult to differentiate between criminal and civil systems as well as courts of limited and general jurisdiction. It is often unclear whether juror compensation paid by one governmental body might actually come from revenue secured elsewhere, namely court systems.

While the information provided reveals the fixed costs of compensating jurors and who pays those costs, it is noteworthy that significant information impacting the overall cost of civil juries is unavailable. Some additional costs may include: the cost to maintain a jury selection pool; the cost to create a jury selection pool in court systems where one does not already exist; the cost of contacting jurors; and the cost to retrofit courts to house juries that previously maintained only bench trials.

Lastly, information regarding the financial impact of changing the jury threshold—by increase or decrease—is unavailable. Of course, should a change in the jury threshold result in more or less jury trials, the fixed costs of compensating jurors will naturally follow any downward or upward trend. The governmental body responsible for compensation would thereby be affected.

The compensation paid to jurors in Louisiana is \$25 per day and 0.16 cents per mile. Lengthy trial funds aside, twenty-nine (29) states provide, or permit, reimbursement greater than Louisiana's daily rate: Arkansas (\$50), Colorado (\$50), Connecticut (\$50), D.C. (\$30), Florida (\$30), Georgia (\$50), Hawaii (\$30), Idaho (\$50), Indiana (\$40), Iowa (\$50), Kansas (\$50), Maryland (\$50), Massachusetts (\$50), Michigan (\$40), Minnesota (\$50), Mississippi (\$40), Nebraska (\$35), Nevada (\$40), New Jersey (\$40), New York (\$40), North Dakota

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<sup>2</sup> National Center for State Courts, *COURT COSTS: FEES, MISCELLANEOUS CHARGES AND SURCHARGES; CIVIL FILING FEES IN STATE TRIAL COURTS* (April, 2012) <http://www.ncsc.org/information-and-resources/budgetresourcecenter/~media/Files/PDF/Information%20and%20Resources/Budget%20Resource%20Center/Civil%20Filing%20Fees%20April%202012.ashx>.

(\$50), Ohio (\$40), South Dakota (\$50), Texas (\$40), Utah (\$49), Vermont (\$30), Virginia (\$30), West Virginia (\$40), Wyoming (\$40).

Louisiana requires a jury demand fee of \$150 in addition to a bond or cash deposit to cover all estimated jury trial costs. Research indicates that twenty-five (25) states do not require the party requesting a jury to pay a jury demand fee. The following states have a jury demand fee that is equal or greater than Louisiana's: California (\$150), Colorado (\$190), Connecticut (\$425), Hawaii (\$200), Illinois (\$212.50), Maine (\$300), New Mexico (\$150 for 6 person jury and \$300 for a 12 person jury), Oklahoma (\$349), Oregon (\$150 for 6 person jury and \$225 for a jury of more than 6 persons), Utah (\$250), Wyoming (\$150 for a 12 person jury).

By contrast, jury fees in the five (5) states with the lowest charged fee include: Mississippi (\$3), New York (\$65), South Dakota (\$25), Texas (\$5 in county court and \$10 in district court), Wisconsin (\$6 per juror demanded).

Attached as **Exhibit 4** is a spreadsheet that provides data on current civil juror compensation rates, the governmental body that pays that compensation, and any supplemental fees charged for demanding a civil jury trial.

In Louisiana, the local clerks of court are responsible for compensating jurors from their budgets. Research indicates that in twenty-one (21) states, juror compensation is ultimately paid by the state. In Florida, clerks of court pay jurors with revenue provided by the state. In Pennsylvania, the state only reimburses counties 80% of the cost to compensate jurors. Research also indicates that in at least fifteen (15) states, the local county pays juror compensation. In Arkansas, individual counties compensate jurors with partial reimbursement from the state. In Minnesota, the compensation is paid from county treasuries except in the Eighth Judicial District, where the state pays directly. In Nevada, clerks of court pay jurors from money paid in advance by litigants, and any balance is paid by the county. Information was unavailable for 12 states.

**XII. The financial implications to state and local governmental authorities of reducing the jury trial threshold, maintaining the jury trial threshold at its current level, and increasing the jury trial threshold**

In 1993, the Louisiana legislature raised the civil jury trial threshold from \$20,000 to \$50,000. The legislative record indicates that proponents of the increase argued that it “would result in better docket management by judges and speedier trials.”<sup>3</sup> Also, by

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<sup>3</sup> Minutes of Civil Law and Procedure Committee, April 26, 1993.

eliminating some trials, there would be less disruption of the lives of individuals summoned for jury duty who wait in the courtroom, but are never chosen to serve on a jury.<sup>4</sup> Furthermore, in small parishes, the same people were being called repeatedly.<sup>5</sup> As shown in **Exhibit 2**, the number of civil jury trials declined markedly after 1993.

There is no empirical data available to determine what the financial implications to state and local governmental authorities would be if the jury trial threshold were reduced, maintained, or increased. However, it is important to note that, “studies have shown that less than one (1) percent of civil cases go to jury trial in states with no jury threshold.”<sup>6</sup> This fact was highlighted in the August 2014 publication by Louisiana Association of Business and Industry, entitled, “Fact Sheet: Louisiana’s Judicial Climate.” This suggests that the jury threshold amount might not determine the actual jury trials held. Instead, there may be other factors that contribute to the actual number of jury trials.

For example, according to a 2005 study by the National Center for State Courts, “[b]ench and jury trials have been declining steadily for the past twenty years...”<sup>7</sup> And over the period of eighteen (18) years from 1984-2002, the ratio of bench to jury trials has remained at approximately 26 to 1.<sup>8</sup> Researchers from the NCSC have highlighted three general factors that have contributed to the decline in jury trials: increased emphasis on caseload management; growth in the popularity of alternative dispute resolution; and procedural and institutional constraints on the number of trials.<sup>9</sup>

“[T]he Louisiana District Judges Association has consistently expressed that lowering the civil jury trial threshold would cause disruption and difficulty across the state in the docketing and management of jury trials.”<sup>10</sup> “Further, lowering those thresholds will result in escalating costs to the litigants and severe time management issues.”<sup>11</sup> The full LDJA letter is attached as **Exhibit 5**.

The 4<sup>th</sup> Judicial District Court reported that reducing the jury trial threshold to \$35,000.00 would mean that some city courts would then have jurisdiction to handle cases that would qualify for jury trials. The 4<sup>th</sup> JDC believes that city courtrooms are not equipped

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Fact Sheet: Louisiana’s Judicial Climate* (Louisiana Association of Business and Industry), August 2014, available at [http://labi.org/assets/media/documents/JudicialClimateFactSheet\\_Reduced.pdf](http://labi.org/assets/media/documents/JudicialClimateFactSheet_Reduced.pdf).

<sup>7</sup> 11 Richard Y. Schauffler, Paula Hannaford-Agor, Robert C. LaFountain & Shauna Strickland, *Trial Trends and Implications for the Civil Justice System. Caseload Highlights*, 1-6 (2005).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Letter from the Honorable Judge Raymond Childress, Louisiana District Judges Association President, to Blake Hanson, WDSU general assignment reporter (Jan. 15, 2014) (on file with the Louisiana District Judges Association).

<sup>11</sup> *Id.*

to handle jury trials. They do not have jury boxes, and city courthouses do not have jury deliberation rooms or any place to seat a jury venire. City court building modifications to accommodate a jury trial would be expensive and often impossible. There would be no added expense to leave the threshold where it is. The 4<sup>th</sup> JDC does not think that increasing the jury trial threshold would have any significant financial impact on governmental authorities.

The 29<sup>th</sup> Judicial District Court reported that their court is a three-judge court, but there is only one jury room. Therefore, the jury room is only available 1/3 of the time (and a Judge can only try jury trials during the respective duty months). The 29<sup>th</sup> JDC expressed that the district cannot physically accommodate more jury venires and more jury trials, which they believe could happen if the threshold for jury trials was lowered. This could cause more delays before cases could be heard.

The 37<sup>th</sup> Judicial District Court reported that the financial implication to the jurisdiction with regard to reducing the jury trial threshold would be significant due to the fact that the 37<sup>th</sup> JDC is a single judge district with a single courtroom. The 37<sup>th</sup> JDC stated that it would create a significant backlog of cases since it currently has five (5) civil jury weeks, and six (6) criminal jury weeks per year. The 37<sup>th</sup> JDC also stated that maintaining the jury threshold or increasing the jury threshold would probably maintain the status quo and/or decrease the backlog of cases respectively.

### **XIII. Factors unique to Louisiana’s civil justice system and the impact those factors have on the jury threshold**

There are several factors unique to Louisiana’s civil justice system that may have a unique impact on the jury threshold. The U.S. Constitution—and nearly every state constitution except Louisiana and Colorado—guarantees the right to a civil jury trial for any claim exceeding \$20, under the Seventh Amendment. It is important to note that Louisiana’s original Constitution of 1812 did not include a right to civil jury trial, although it did include a right to criminal jury trial.

One of the greatest distinctions between continental civilian jurisdictions and common law jurisdictions is the absence of the civil jury trial in the former.<sup>12</sup> The use of a jury is “hostile” to civilian principles.<sup>13</sup> Whereas the civilian tradition emphasizes the role of learned judges, juries often derogate from legal principles to accommodate lay notions of

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<sup>12</sup> Kent A. Lambert, *The Suffocation of a Legal Heritage: A Comparative Analysis of Civil Procedure in Louisiana and France—The Corruption of Louisiana’s Civilian Tradition*, 67 TUL. L. REV. 231 (Nov. 1992).

<sup>13</sup> Alvin B. Rubin, *Hazards of a Civilian Venturer in Federal Court: Travel and Travail on the Erie Railroad*, 48 LA. L. REV. 1369 (July 1988).

equity and justice.<sup>14</sup> Nonetheless, Louisiana has incorporated civil juries into its civilian system as early as 1805.<sup>15</sup> It has been noted, however, that the reception of this common law institution “has never been able to achieve the same sanctified status that it enjoys in most American jurisdictions.”<sup>16</sup> Unlike many other states, the right to a trial by jury in civil cases is not enumerated in the Louisiana constitution.<sup>17</sup> Furthermore, our statutory civil jury trial rights are tempered by the power of Louisiana appellate courts to review the factual determinations of juries.<sup>18</sup>

However, it is unlikely that legislative action to increase the jury threshold—and thereby reduce the number of claims triable by jury—was aimed at preserving our civilian heritage. To give credence to this view, when the jury threshold was raised to \$5,000 in 1983, the Louisiana State Law Institute stated: “[t]his increase [in the monetary threshold] is appropriate in the light of the increasing cost of jury trials and is in keeping with the expanded jurisdiction of city courts and parish courts in which there is no right to a jury trial.”<sup>19</sup> That raising the threshold might reduce the number of jury trials in line with civilian principles was likely not considered. Instead, this decision appeared to be more influenced by economics rather than civilian principles of limited juries. While our civilian heritage, in its purest form, might favor a high threshold in so much as it restores decision making to judges in cases that fall below the threshold, “factors unique to Louisiana’s civil justice system” have long been abrogated to incorporate this common law pillar and accommodate practical concerns over judicial economy.

In *Benoit v. Allstate*<sup>20</sup>, the Louisiana Supreme Court noted the legislative trends to restrict, rather than expand, the right to jury trials; to expand the jurisdictions of courts of limited jurisdiction in which there is no right to trial by jury; and (3) generally to limit the availability of the more costly methods of litigating claims and to encourage more efficient methods, such as summary judgment.<sup>21</sup>

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<sup>14</sup> *Id.* at 1376.

<sup>15</sup> Lambert, *supra* at p. 254.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See LA CONST. art. 5, §§ 5, 10.

<sup>19</sup> *Benoit v. Allstate Ins. Co.*, 773 So.2d 702 (2000).

<sup>20</sup> *Benoit v. Allstate Ins. Co.*, 773 So.2d 702 (2000).

<sup>21</sup> See La. Code Civ. Proc. art. 966A(2) (“The summary judgment procedure is designed to secure the just, speedy, and inexpensive determination of every action, except those disallowed by Article 969. The procedure is favored and shall be construed to accomplish these ends.”)

**XIV. The public purpose and reasons why most other states have delictual prescriptive periods beyond one year**

Generally stated, the overall purpose of delictual prescriptive periods is to prevent stale claims, expedite litigation and ensure judiciary fairness. However, supporting information is very limited on why some states have longer prescriptive periods than other states. Attached is a chart detailing each state's delictual prescriptive period, along any supporting legislative intent. *See Exhibit 6.*

Only *three* states have a tort prescriptive period of one year: Louisiana, Kentucky, and Tennessee. *Twenty-four* states have a tort prescriptive period of two years. *Seventeen* states have a tort prescriptive period of three years. *Four* states have a tort prescriptive period of four years. *One* state has a tort prescriptive period of five years. *Two* states have a tort prescriptive period of six years. Louisiana's neighboring states of Texas, Arkansas, and Mississippi all have longer prescriptive periods than Louisiana. Texas is two (2) years, Arkansas is three (3) years, and Mississippi is three (3) years.

It is reasonable to conclude that the public purpose and reasons why most other states have delictual prescriptive periods beyond one year is because litigation expenses may be unduly burdensome for some parties and may prevent access to the courts. Also, if the parties have additional time to commence a lawsuit, these parties might have the ability to resolve issues and settle these matters without the necessity of filing a lawsuit. Other reasons might include unforeseen emergencies and disasters. For example, during the wake of Hurricane Katrina, Louisiana Governor Kathleen Blanco issued an Executive Order calling for the emergency suspension of all deadlines in legal proceedings, including liberative prescription and preemptive periods in all courts.

**XV. Conclusion**

As discussed, the depth and breadth of information requested by HR 156 was difficult to compile because the Supreme Court was neither the custodian of such information, nor had access to such information. However, several issues were raised by the preparation of this report that should be addressed, but were outside the scope of this report.

First, revising the prescriptive period and/or the jury threshold could have an ancillary effect beyond the immediate issue of civil delictual actions in district courts. These ancillary effects to be considered include, but are not limited to, effect on city courts; issues of concurrent jurisdiction between district and city courts; effect on criminal dockets and speedy trial issues; effect of decreased court filings on decreased collections of court costs, resulting in decreased funding for courts through self-generated sources, resulting in



consideration of increase in court costs, resulting in possible access to court issues; effect on local municipalities who fund limited jurisdiction courts; and effect on district courts of increased costs of jury trials. Additional stakeholders in revising the prescriptive period and/or changing the jury threshold may include, but are not limited to, the Louisiana Municipal Association, the Louisiana State Bar Association, the Louisiana Sheriff's Association; the local chambers of commerce; the City Court Judges Association; and the City Court Clerks of Court Association.

Louisiana is near the median with respect to the level of compensation paid to civil jurors. Louisiana falls in line with half of the country by charging a fee for demanding a trial by jury. Also, through case law, the Louisiana Supreme Court has noted the legislative trends to restrict, rather than expand, the right to jury trials; to expand the jurisdictions of courts of limited jurisdiction in which there is no right to trial by jury; and generally to limit the availability of the more costly methods of litigating claims and to encourage more efficient methods, such as summary judgment.

With respect to delictual prescriptive periods, the overall purpose of delictual prescriptive periods is to prevent stale claims, expedite litigation and ensure judiciary fairness. Aside from preventing stale claims and expediting litigation, there was no substantial difference in the purposes for each state's prescriptive period. However, it is reasonable to conclude that the public purpose and reasons why most other states have delictual prescriptive periods beyond one year is because litigation expenses may be unduly burdensome for some parties and may prevent access to the courts. Also, if the parties have additional time to commence a lawsuit, these parties might have the ability to resolve issues and settle these matters without the necessity of filing a lawsuit. A longer prescriptive period could also prove beneficial in the event of deadlines being disrupted by emergency or disaster.

Finally, while there has been a markedly downward trend for all civil lawsuits filed in Louisiana, this trend is not unique to Louisiana, and has been occurring nationally. Reports found that civil jury trials declined significantly for a number of reasons, including the increasing use of mediation and other alternative dispute resolution methods, trial expenses for preparing a case and conducting a trial, and the amount of time it takes to bring a case to trial. There is no empirical data available to determine what the financial implications to state and local governmental authorities would be if the jury trial threshold were reduced, maintained, or increased. However, it is important to note that less than one (1) percent of civil cases go to jury trial in states with no jury threshold. This suggests that the jury threshold amount might not determine the actual jury trials held. As cited, there are several other factors that have likely contributed to the decline in the number of jury trials.

# **EXHIBIT 1**

Regular Session, 2014

HOUSE RESOLUTION NO. 156

BY REPRESENTATIVE CONNICK

A RESOLUTION

To urge and request the Louisiana Supreme Court to study extending the prescriptive periods for delictual actions, to compile data relative to Louisiana's monetary threshold for a civil jury trial, and to submit a written report of its findings to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A not later than ten days prior to the beginning of the 2015 Regular Session of the Legislature of Louisiana.

WHEREAS, Civil Code Article 3492 subjects delictual actions to a liberative prescription of one year, commencing to run from the day the injury or damage is sustained; and

WHEREAS, two states in the country have a six year prescriptive period for such actions; three states in the country have a four year prescriptive period for such actions; seventeen states in the country have a three year prescriptive period for such actions; twenty-four states in the country have a two year prescriptive period for such actions; and two states in the country, in addition to Louisiana, have a one year prescriptive period for such actions; and

WHEREAS, litigation expenses may be unduly burdensome for some parties and may prevent access to the courts; and

WHEREAS, parties in these matters may be able to resolve issues and settle these matters without the necessity of filing a lawsuit if the parties have additional time within which to commence a lawsuit; and

WHEREAS, a benefit may exist for parties when there is a finality of knowing whether any potential claims exist against them; and

WHEREAS, Code of Civil Procedure Article 1732 places limitations on trials by jury, including suits where the amount of no individual petitioner's cause of action exceeds fifty thousand dollars exclusive of interest and costs; and

WHEREAS, the majority of states in the country have no monetary threshold for a civil jury trial and Louisiana has a fifty thousand dollar threshold; and

WHEREAS, the current monetary jury threshold for certain types of civil cases was increased in 1993 to conform to the federal jurisdictional level of fifty thousand dollars; and

WHEREAS, the current federal jurisdictional level has since been raised to seventy five thousand dollars; and

WHEREAS, certain factors are unique to Louisiana, such as our civilian law system and our manner of funding civil jury trials by charging costs to the litigants; and

WHEREAS, unlike other states with lower jury thresholds, civil jury trials are unavailable to Louisiana litigants, regardless of the monetary threshold, in a suit on an unconditional obligation to pay a specific sum of money, summary and executory proceedings, probate and partition cases, workers' compensation, emancipation, tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce proceedings and many other types of civil cases; and

WHEREAS, there has been little examination or analysis of the impact of increasing Louisiana's civil jury trial threshold to fifty thousand dollars since the Legislature of Louisiana raised the amount in 1993; and

WHEREAS, the Legislature of Louisiana would benefit from a comparison of the impact of a reduction in the jury threshold, an increase in the jury threshold, and maintaining the monetary jury threshold at its present level of fifty thousand dollars.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Supreme Court to study the current prescriptive periods for delictual actions and to consider what different effects or impacts on the civil judicial system extending Louisiana's current prescriptive period to two years might have.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Supreme Court to compile public data for a sufficient period of time to provide a comprehensive picture of civil jury trials in Louisiana, but not less than the three most recent years available relative to other states liberative prescriptive periods and

Louisiana's threshold for a civil jury trial in consultation with the Louisiana Clerks of Court Association, the Louisiana District Attorney Association, the Louisiana District Judges Association, the Department of Insurance, the Louisiana Association of Justice, and the Louisiana Association of Defense Attorneys that includes but is not limited to the following:

(1) The number of civil lawsuits filed in Louisiana below the fifty thousand dollar threshold for a civil jury trial, by court of jurisdiction.

(2) The number of civil lawsuits filed in Louisiana for the last six years.

(3) The number of persons receiving notice to serve on a jury, the number of persons responding to a notice to serve on a jury, the percentage of eligible jurors actually impaneled, and the average length of service, by court of jurisdiction.

(4) The last six years' total budget for each judicial district court, clerk of court, and sheriff and the percent of that budget that is intended and utilized to secure jurors for jury trials.

(5) The average estimated cost to public entities to commission and impanel a jury for the duration of a trial, by court of jurisdiction and by parish.

(6) The average jury bond or cash deposit paid by the requesting party for a civil jury trial and the number of instances and average amount of any refunds of unexpended amounts as required by law, by court of jurisdiction.

(7) The number of civil cases filed *in forma pauperis*, by court of jurisdiction.

(8) The total amount owed to each court of jurisdiction due to *in forma pauperis* cases where records of all costs are required to be kept by law.

(9) The number of civil cases transferred from courts of limited jurisdiction to judicial district court due to a request for a trial by jury pursuant to Civil Code of Procedure Article 4872.

(10) The funding sources used by other states to pay for civil jury trials.

(11) The financial implications to state and local governmental authorities of reducing the jury trial threshold, maintaining the jury trial threshold at its current level, and increasing the jury trial threshold.

(12) The factors unique to Louisiana's civil justice system and the impact those factors have on the jury threshold.

(13) The public purpose and reasons why most other states have delictual prescriptive periods beyond one year.

BE IT FURTHER RESOLVED that the Louisiana Supreme Court submit a written report of its findings regarding extending the prescriptive period for delictual actions and the jury trial threshold to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A not later than ten days prior to the beginning of the 2015 Regular Session of the Legislature of Louisiana.

BE IT FURTHER RESOLVED that in compiling data, the Louisiana Supreme Court may engage, collaborate with, and obtain information and perspectives from stakeholder groups with an interest in Louisiana's civil jury trial threshold.

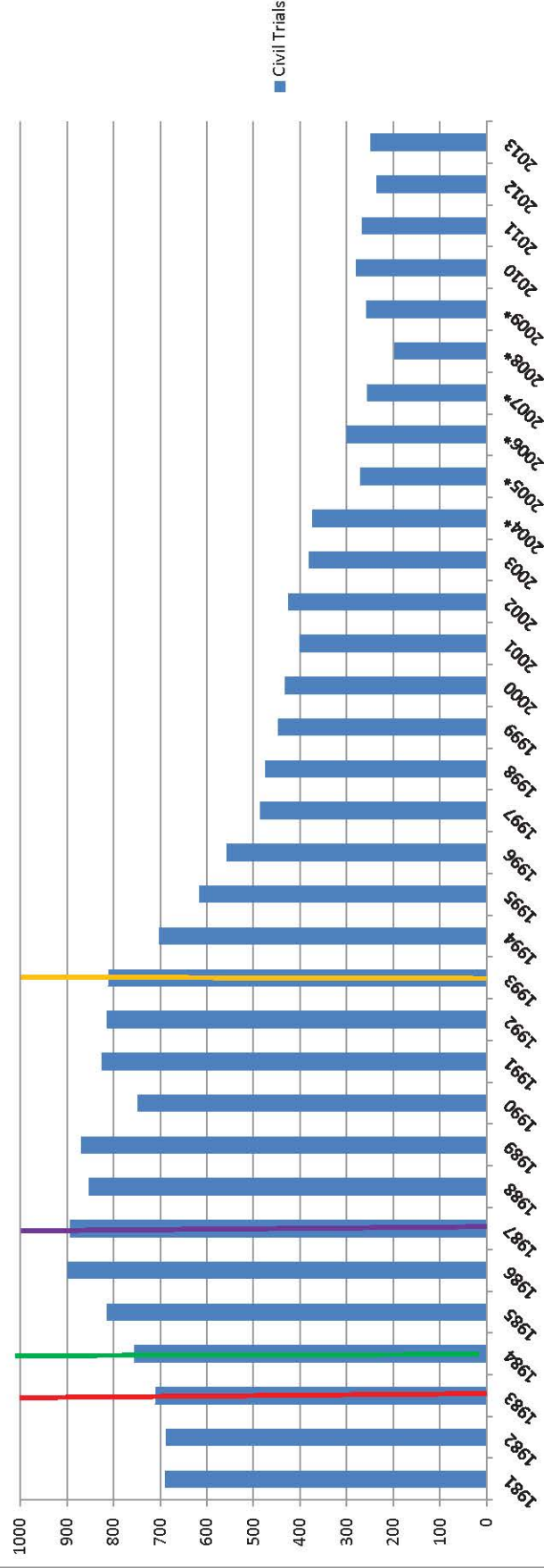
BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the judicial administrator of the Louisiana Supreme Court.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

## **EXHIBIT 2**

## Statewide Number of Civil Jury Trials in District Courts



By La. Acts 1983, No. 534, the legislature increased the jury threshold to \$5,000.

— By La. Acts 1984, No. 301, the legislature increased the jury threshold to \$10,000.

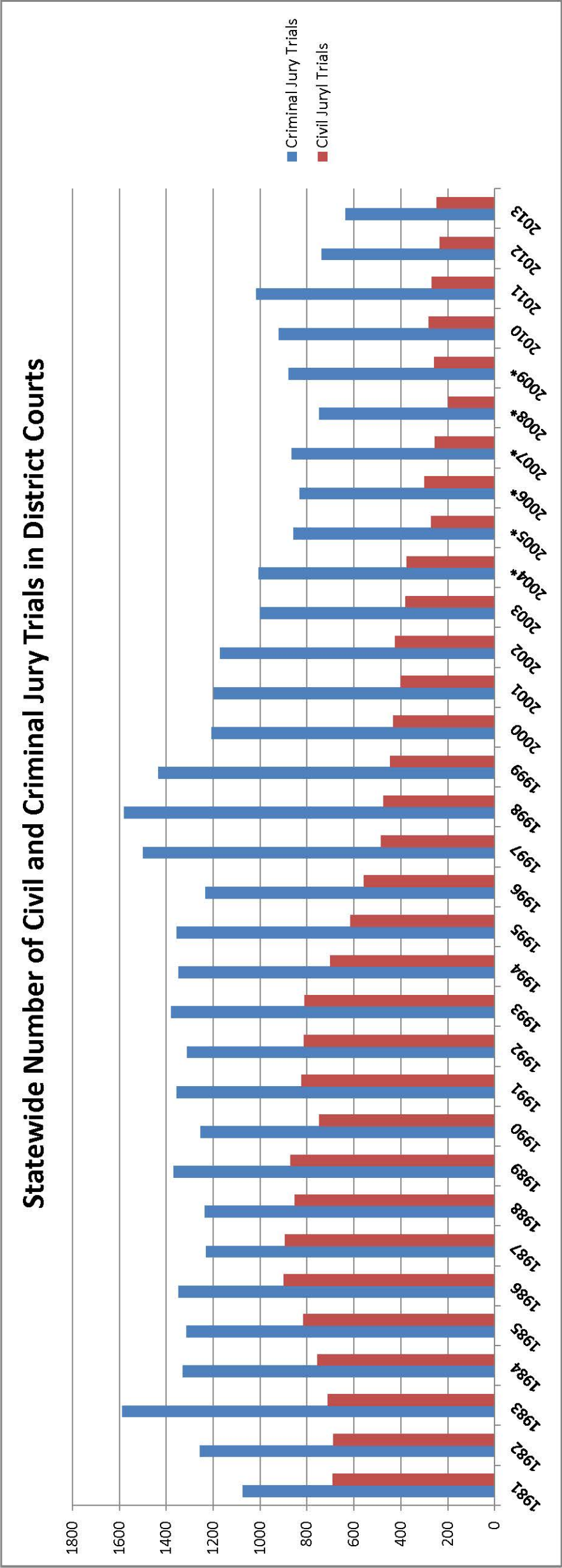
— By La. Acts 1987, No. 766, the legislature increased the jury threshold to \$20,000.

By La. Acts 1993, No. 661, the legislature increased the jury threshold to \$50,000.

[illegible]



# **EXHIBIT 3**



Year	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Criminal Jury Trials	1073	1255	1586	1328	1312	1346	1230	1235	1367	1253	1354	1310	1378	1348	1356	1233	1498	1579	1434	1205	1195	1170	999	106	856	830	864	748	879	920	1015	737	636

Year	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Civil Jury Trials	689	687	710	755	814	899	893	852	869	748	824	813	811	701	615	557	485	474	446	432	400	425	380	374	271	300	255	197	258	280	267	235	248

# **EXHIBIT 4**

State	Tort Rx. Period	Jury Threshold	Jury Compensation	Who Pays for Jury?	Source for compensation and payor info.	Notes	Ad ditional Jury Fee
AL	2	\$3,000	\$10 per day plus 5 cents per mile.	State.	Ala. Code § 12-19-210		\$100 fee paid when jury is demanded by demanding party. Ala. Code 1975 § 12-19-71.
AK	2	\$250	\$25 per day plus mileage at state employee rate if more than 30 miles. Accomodations at state per diem rate if impracticable to return home	State Judiciary.	AK R ADMIN Rule 14.		Does not appear to be a jury demand fee. See <a href="http://courts.alaska.gov/adm.htm#9">http://courts.alaska.gov/adm.htm#9</a> .
AZ	2	No rt to jury in small claims, under \$3500	\$12 per day plus mileage at state employee rate. Lengthy trial fund: \$40-\$300 per day after 4 days.	County.	A.R.S. § 21-221, 222.		A jury fee shall also be included in the judgment and taxed as costs and shall be fixed by the court at the time the judgment is given. The jury fee shall include the cost of reimbursement for juror travel expenses. The jury fee shall be paid to the clerk of the court for transmittal to the county treasurer who shall dispose of it as other similar money is disposed of. An action to collect jury fees shall be commenced:1. Only if the judgment fixing the jury fees is recorded in the office of the county recorder not later than thirty days after the judgment is rendered. 2) At any time after the date of the recording of the judgment fixing the jury fees and the judgment does not expire until it is paid in full. C) The court may at any time for good cause shown relieve a person from payment of a jury fee if the court believes that such relief is proper. Ariz. Rev. Stat. Ann. § 12-332.
AR	3	\$100	Varies by county. Not less than \$15 per day if juror makes an appearance . If selected, \$50 per day. Mileage if provided by county.	County with partial state reimbursement available.	A.C.A. § 16-34-103, 106.		Does not appear to be a jury demand fee and does not appear that costs are taxable. A.C.A. § 21-6-403.
CA	2	No rt to jury in small claims, under \$25,000	\$15 per day plus 34 cents per mile.	N/A	CA CIV PRO § 215.		At least one party demanding a jury on each side of a civil case shall pay a nonrefundable fee of one hundred fifty dollars (\$150), unless the fee has been paid by another party on the same side of the case. The fee shall offset the costs to the state of providing juries in civil cases. . . The [jury fee] shall be due on or before the date scheduled for the initial case management conference in the action except as follows (various exceptions listed). Cal. Civ. Proc. Code § 631 (West).
CO	2	none	Up to \$50 per day after third day plus mileage.	Entire court system state funded.	C.R.S.A. § 13-71-127 et seq.; C.R.S.A. § 13-3-104.	Municipal courts set fees and pay them for juror service in a municipal court.	Any party demanding a trial by jury as provided by statute shall pay to the clerk of the court a jury demand fee of \$190 jury demand fee in district court cases at the time the demand is made pursuant to the Colorado rules of civil procedure. \$98 as in county court cases at the time the demand is made pursuant to Colorado rules of civil procedure. . . Failure to pay the jury fee at the time of filing the demand, and no later than ten days after the service of the last pleading directed to any issue triable by a jury, shall constitute a waiver of a jury trial by the demanding, nonpaying party. Each fee shall be transmitted to the state treasurer (to various judicial funds in differing amounts). CO ST § 13-71-144. When a party to an action has exercised the right to demand a trial by jury, every other party to such action shall also pay the requisite jury fee unless such other party, pursuant to Rule 5(d), files and serves a notice of waiver of the right to trial by jury within 14 days after service of the demand . . . The failure of a party to file and serve a demand for trial by jury and simultaneously pay the requisite jury fee as required by this Rule constitutes a waiver of that party's right to trial by jury. CO ST RCP Rule 38
CT	2	\$250	Employers pay the first 5 days, then State pays up to \$50 per day. Part-time and unemployed jurors are reimbursed for out-of-pocket expenses during the first 5 days up to \$50.	State reimbursement.	C.G.S.A. § 51-247.	The jury administrator shall establish guidelines for reimbursement of expenses pursuant to this section.	The jury fee in civil actions shall be four hundred twenty-five dollars to be paid at the time the case is claimed for the jury by the party at whose request the case is placed upon the jury docket. The jury fee shall be taxed in favor of the party paying the jury fee in the bill of costs in the action, if final judgment thereon is rendered in such party's favor. CT ST § 52-258.
DE	2	No rt to jury in JP Court, under \$15,000, can file elsewhere	\$20 per day and no mileage. State shall pay for food, lodging, and other necessary expense during a jury sequestration.	State treasurer.	10 Del.C. § 4514.		Does not appear that a jury demand fee is required for general juries. Del. Super. Ct. Crim. R. 3. However, a deposit of not less than \$750 shall be required in every case where a special jury is requested. <i>Id.</i>

D.C	3	none				N/A		DC ST § 15-718		The Superior Court of the District of Columbia may prescribe fees and costs, including the fee to be paid for a jury trial. D.C. Code § 15-709 . However, there does not appear to be a jury demand fee unless in a tenant or landlord dispute or small claims court, in which case fee is \$75.00. See <a href="http://www.dccourts.gov/internet/public/aud_civil/filingfees.jsf">http://www.dccourts.gov/internet/public/aud_civil/filingfees.jsf</a> , <a href="http://www.dccourts.gov/internet/documents/ADMINISTRATIVE_RULE_090707.pdf">http://www.dccourts.gov/internet/documents/ADMINISTRATIVE_RULE_090707.pdf</a> .
FL	4	none				State revenue; paid by clerks of court.		F.S.A. § 40.32; FSA § 29.004.		Does not appear to be a jury demand fee. The party recovering judgment shall recover all his or her legal costs and charges which shall be included in the judgment; but this section does not apply to executors or administrators in actions when they are not liable for costs. Fla. Stat. Ann. § 57.041 (West)
GA	2	none				N/A		Ga. ST. § 15-12-7.		Does not appear to be a jury demand fee. Ga. Code Ann. § 15-21A-6.1.
HI	2	\$5,000				N/A		HRS § 612-8.		\$200 to the court in which the demand is filed by the party first making the demand. Haw. Rev. Stat. § 607-5 (West)
ID	2	none				County treasury.		I.C. § 2-215.		Does not appear to be a jury demand fee . I.R.C.P. App. A.
										Counties of 3,000,000 and more: The clerk shall be entitled to receive, in addition to other fees allowed by law, the sum of a minimum of \$212.50 and maximum of \$230, as a fee for the services of a jury in every civil action not quasi-criminal in its nature and not a proceeding for the exercise of the right of eminent domain and in every other action wherein the right of trial by jury is or may be given by law. The jury fee shall be paid by the party demanding a jury at the time of filing the jury demand. If the fee is not paid by either party, no jury shall be called in the action or proceeding, and the same shall be tried by the court without a jury. 705 Ill. Comp. Stat. Ann. 105/27.2a Counties over 500,000 but less than 3,000,000. The clerk shall be entitled to receive, in addition to other fees allowed by law, the sum of a minimum of \$192.50 and a maximum of \$212.50, as a fee for the services of a jury in every civil action not quasi-criminal in its nature and not a proceeding for the exercise of the right of eminent domain and in every other action wherein the right of trial by jury is or may be given by law. The jury fee shall be paid by the party demanding a jury at the time of filing the jury demand. If the fee is not paid by either party, no jury shall be called in the action or proceeding, and the same shall be tried by the court without a jury. 705 Ill. Comp. Stat. Ann. 105/27.2 Counties over 180,000 but not more than 500,000: The clerk shall be entitled to receive, in addition to other fees allowed by law, the sum of a minimum of \$62.50 and a maximum of \$212.50, as a fee for the services of a jury in every civil action not quasi-criminal in its nature and not a proceeding for the exercise of the right of eminent domain and in every other action wherein the right of trial by jury is or may be given by law. The jury fee shall be paid by the party demanding a jury at the time of filing the jury demand. If the fee is not paid by either party, no jury shall be called in the action or proceeding, and the same shall be tried by the court without a jury. 705 Ill. Comp. Stat. Ann. 105/27.1a
IL	2	none				County treasury.		55 ILCS 5/4-11001.		Does not appear to be a jury demand fee. Indiana Trial Court Fee Manual published by the Indiana Supreme Court Division of State Court Administration, <a href="http://www.in.gov/judiciary/admin/fees/pubs-fee-manual.pdf">www.in.gov/judiciary/admin/fees/pubs-fee-manual.pdf</a> (Updated June 27, 2013).
IN	2	none				N/A			\$15 per day and mileage in city or town court.	
IA	2	none				N/A		<a href="http://www.iowacourts.gov/For_the_Public/Jury_Service/Frequently_Asked_Questions/">http://www.iowacourts.gov/For_the_Public/Jury_Service/Frequently_Asked_Questions/</a>		Does not appear to be a jury demand fee. Iowa Code Ann. § 602.8105 (West).
KS	2	none				County general fund.		K.S.A. 43-171.		Does not appear to be a jury demand fee and does not appear that jury costs are taxable to the losing party. Kan. Stat. Ann. §§ 60-2001 - 07 (West).

KY	1	\$250	\$12.50 per day.	N/A	KRS § 29A.330.	(2) Additional costs, payable to the circuit clerk at the time the service is requested, shall be charged in Circuit Court civil cases as follows: (a) For a jury of six persons \$30.00 (b) For a jury of more than six \$60.00. . . A fee of \$100 per day for each day of a civil jury trial in excess of four days, to be collected following entry of the judgment. Ky. R. Civ. P. 3.02.
LA	1	\$50,000	\$25.00 per day plus 16 cents per mile.	Paid by the clerk of court.	La. Rev. Stat. Ann. 13:3049(B)(2)(a)	Party requesting jury pays \$150 jury fee in addition to bond or deposit. La.R.S. 13:3049 B 2a . Bond or cash deposit to cover all estimated jury trial costs. Cash may not exceed \$2000 for the first day and \$400 per day thereafter. La. Code Civ. Proc. Ann. art. 1734.1. Court may require additional amount if required and refund unused money. Cost of jury is taxed as costs of court against losing party.
ME	6	none	\$10.00 per day plus mileage	N/A	14 M.R.S.A. § 1215	Jury Trial Fee of \$300 paid as required by the scheduling order entered by the court. Main Rules of Civ. Pro., Rule 38; <i>see also</i> <a href="http://www.courts.maine.gov/fees_forms/fees.html">http://www.courts.maine.gov/fees_forms/fees.html</a> .
MD	3	\$15,000	State per diem of \$15 and any supplement authorized by the county. If selected as a trial juror, \$15 State per diem for first 5 days and a State per diem of \$50 for each day after 5 days.	State allocation to judicial branch. Counties pay for any supplement.	Md. Code Ann., Cts. & Jud. Proc. § 8-426, 427, 428 (West)	Does not appear to be a jury demand fee. MD R CIR CT FEE SCHEDULE Fees.
MA	3	none	Employer pays the first three days, then state pays \$50 per day. Unemployed jurors any be paid \$50 from the first day of service.	Commonwealth.	M.G.L.A. 234A § 50	Does not appear to be a jury demand fee. Mass. Gen. Laws Ann. 262 § 4A (West).
MI	3	none	Not less than \$25 for first day and then not less than \$40.00 per day. Not less than 10 cents per mile.	State treasurer.	M.C.L.A. 600.1344; M.C.L.A. 600.151d	(c) At the time a trial by jury is demanded, the party making the demand shall pay \$85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The fee paid shall be taxed in favor of the party paying it if the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit \$25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d. Mich. Comp. Laws Ann. § 600.2529 (West)
MN	2	none	\$10 per day and up to \$50 per day if juror normally cares for child. Mileage at 27 cents per mile.	Except in the Eight Judicial District where the state shall pay directly, the compensation and reimbursement shall be paid out of the county treasury upon receipt of authorization to pay from the jury commissioner. These jury costs shall be reimbursed monthly by the Supreme Court upon submission of an invoice by the county treasurer.	The Minnesota Supreme Court sets the rate of juror pay. The amount was recently reduced 08/08 to help offset a \$19 million dollar deficit. <a href="http://www.twincities.com/ci_9916570">http://www.twincities.com/ci_9916570</a>	The party requesting a trial by jury shall pay \$100. M.S.A. § 357.021
MS	3	none	Chancery, County, Circuit and Special Eminent domain courts: set by a board of supervisors; not less than \$25 per day and not greater than \$40 per day plus mileage authorized in section 25-3-41. Justice of the peace courts: not less than \$10 per day and not greater than \$15.00 per day. If a juror serves more than 10 days, supplemental wages up to \$300 per day from Lengthy Trial fund if available.	Appears to be the county.	Miss. Code. Ann. § 25-7-61 (West)	A jury tax of three dollars is imposed on each original suit in the circuit court in which a plea is filed, and on every issue therein tried separately by a jury, and a tax of two dollars on each case transferred or appealed thereto, to constitute a fund for the payment of jurors, and to be collected by the clerk or sheriff as costs. The clerk shall be liable on his official bond for any failure to charge, receive, or issue execution for the jury tax; and the sheriff shall likewise be liable for a failure to collect or to pay the same to the county treasurer; and they may be fined as for a contempt therefor not more than one hundred dollars. Miss. Code. Ann. § 9-7-133 (West).
MO	5	none	Minimum of \$6.00 per day plus 7 cents per mile, but most counties pay more.	County or municipality if not contained within a county.	V.A.M.S. 488.040	Does not appear to be a jury demand fee. <i>See</i> <a href="http://www.courts.mo.gov/hosted/circuit13/other/fees.htm">http://www.courts.mo.gov/hosted/circuit13/other/fees.htm</a> (note, however, that a request for jury trial from municipal division requires a \$30.00 fee).

MT	3	none	\$12 per day plus mileage. \$13 per day for juror selected to a panel.	Appears to be state general fund.	MCA 3-15-201, 205		Does not appear to be a jury demand fee. Mont. Code Ann. § 25-1-201.
NE	4	none	\$35 per day plus mileage.	N/A	Neb. Rev. Statute 33-138; 33-138; 81-1176		Does not appear to be a jury demand fee. See <a href="https://supremecourt.nebraska.gov/4800/filing-fees-and-court-costs">https://supremecourt.nebraska.gov/4800/filing-fees-and-court-costs</a> ; Neb. Rev. Stat. § 33-106 et. seq.
NV	2	none	\$40 per day after the second day of selection. \$40 per day for each day of service if selected. 36.5 cents per mile if juror lives 30 miles or more from the courthouse. If juror lives 65 miles or more from courthouse, a day of lodging at state rate.	Clerk of court form money paid in advance by litigants. Any balance paid by county.	N.R.S. 6.150		Does not appear to be a jury demand fee. Nev. Rev. Stat. Ann. § 19.013 (West) et. seq. Actual costs paid in advance by party requesting jury. If party who requests jury is prevailing party, may recover jury costs from losing party. Any balance is paid by county. N.R.S. 6.150(6)-(7).
NH	3	\$1,500	\$10 per half day plus 20 cents per mile.	State.	N.H. Rev. Stat. § 500-A:15		Does not appear to be jury demand fee. See <a href="http://www.courts.state.nh.us/rules/supercr-new/supercr-new-201.htm">http://www.courts.state.nh.us/rules/supercr-new/supercr-new-201.htm</a> .
NJ		No rt to jury in small claims, under \$3,000	\$5 for the first three days and \$40 for the 4th and subsequent days. This applies only to petit jurors (consecutive days of service) and not to grand jurors	State Department of the Treasury.	N.J.S.A. 22A:1-1.1; <a href="http://www.judiciary.state.nj.us/essex/jury/juror_basics.htm#compensation">www.judiciary.state.nj.us/essex/jury/juror_basics.htm#compensation</a>		Does not appear to be a jury demand fee. See <a href="http://www.judiciary.state.nj.us/forms/11112_courtfees.pdf">http://www.judiciary.state.nj.us/forms/11112_courtfees.pdf</a> (Effective Nov. 17, 2014).
NM	3	No rt to jury in magistrate cts, under \$10,000; can file elsewhere	For time at the highest prevailing state minimum wage and mileage at state rate.	State appropriation.	N.M.S.A. 1978 § 38-5-15		C. Payment of Jury Fees. Any party initially demanding a jury of six persons shall, at the time of filing of the jury demand, deposit with the clerk of the court a non-refundable jury fee of one hundred fifty dollars (\$150.00), and after the first day of trial shall deposit one hundred fifty dollars (\$150.00) additional upon commencement of court on each subsequent day the attendance of the jury is required for the trial. Any party initially demanding a jury of twelve persons shall, at the time of filing the jury demand, deposit with the clerk of the court a non-refundable jury fee of three hundred dollars (\$300.00), and after the first day of trial, shall deposit three hundred dollars (\$300.00) additional upon commencement of court upon each subsequent day the attendance of the jury is required for the trial. If a jury of six persons has been initially demanded and another party subsequently files a demand for a jury of twelve persons, each party shall deposit with the clerk of the court for and on account of jury fees the sum of one hundred fifty dollars (\$150.00) and each party shall deposit one hundred fifty dollars (\$150.00) additional upon commencement of court upon each subsequent day the attendance of the jury is required for the trial. H. Costs. Jury fees paid by a party shall be taxed as a part of the costs of the case against the party losing the case. NMRA ule 1-038.
NY	3	none	\$40 per day for each and every day of physical attendance wherein the court convenes.	State charge payable out of funds appropriated to the office of court administration for that purpose.	NY JUD § 521		(c) Filing demand for jury trial. For filing a demand for a jury trial in the following counties, where the right to a jury trial is duly demanded: 1. in the counties within the city of New York, sixty-five dollars in the supreme court; 2. in all other counties, sixty-five dollars in the supreme court and county court. NY CPLR § 8020.
NC	3	none	As of August 1, 2006, jurors will receive \$12 for the first day, \$20 per day for days two thru five, and \$40 per day for each day of service beyond five days. Grand jurors will receive \$20 per day, up from \$12 per day.	N/A	N.C.G.S.A. § 7A-312	<a href="http://www.charlotteobserverserver.com/2014/12/13/5380544/north-carolina-struggling-to-find.html#VMayP5OX">http://www.charlotteobserverserver.com/2014/12/13/5380544/north-carolina-struggling-to-find.html#VMayP5OX</a> OE	Does not appear to be a jury demand fee. N.C. Gen. Stat. Ann. § 7A-305 (West).



ND	6	none	Mileage plus \$50 per day for each day of required attendance at sessions of the district court unless the juror is in attendance for four hours or less on the first day, in which case compensation for first day is \$25. \$10 per day for sessions of a coroner's inquest.	State for jurors at sessions of the district court. County for jurors at coroner's inquests.	NDCC, 27-09.1-14		Does not appear to be a jury demand fee. N.D. Cent. Code Ann. § 27-05.2-03 (West)
OH	2	none	\$10.00 per day. Fees vary among counties. County commission shall fix the compensation not to exceed \$40.00 per day. After ten days of actual service, compensation is to be one and a half times the daily rate – minimum of \$15.00.	Costs borne by parties. In any civil action in a court of common pleas in which a jury is sworn and a verdict is returned, the fees of the jurors shall be taxed as costs unless the court determines that the payment of the fees by a party against whom they are proposed to be taxed would not be in the interest of justice.	R.C. § 2313.22; 2335.28.		(A) Except as provided in division (B) of this section, in any civil action in a court of common pleas in which a jury is sworn and a verdict is returned, the fees of the jurors shall be taxed as costs unless the court determines that the payment of the fees by a party against whom they are proposed to be taxed would not be in the interest of justice. (B)(1) If a civil action in a court of common pleas in which a jury has been summoned but not sworn is settled or does not otherwise go forward, the fees of the jurors summoned may be taxed as costs at the discretion of the trial court. . . (E) Jury fees shall be taxed as costs pursuant to this section for each day or part of a day that a sworn juror serves. Ohio Rev. Code Ann. § 2335.28 (West).
OK	2	\$1,500	\$20 per day plus mileage. If trial lasts 10+ days, jurors can qualify for up to \$200 per day from lengthy trial fund on the 11th day of service. If qualify, replacement or supplemental wages up to \$50.00 for the 4th - 10th day of service.	Local court fund.	28 Okl. St. Ann. § 86.	Each attorney who files a civil case must pay the clerk a \$10 fee that goes to a lengthy trial fund to pay jurors.	A. In civil cases, the court clerk shall collect and deposit in the court fund the following charges in addition to the flat fee: . . . 7) When a jury is requested - \$349.00. . . B. The fee prescribed in paragraph 7 of subsection A of this section shall be paid at the time of the pretrial conference by the party requesting the jury.
OR	2	\$750	20 cents per mile and \$10 for first and second day; \$25 for third and subsequent days. Unless otherwise provided by the terms of an employment agreement, a juror must waive the juror fee if the juror's employer pays the juror a wage or salary for the days the juror is required to attend the circuit court during the jury service term	State from funds available for the purpose. Payment shall be made upon a certified statement, prepared by the clerk of court, showing the number of days each juror has served and the amount due each juror for mileage and other expenses. . . If a jury in the circuit court is provided food, drink, lodging or transportation by order of the circuit court, the cost thereof shall be paid by the state from funds available for that purpose.	O.R.S. § 10.061; § 10.075.		Trial fees: 6 person jury - full or partial day \$150 trial fee. More than six-person jury full or partial day \$225 trial fee. The amount of the fee for the first day of trial shall be collected in advance and is due and payable when the action, suit or proceeding is set for trial by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes. Party requesting jury pays. ORS 21.225(3)(a).
PA	2	none	\$9 per day for first three days and \$25 per day for each day after. 17 cents per mile.	The Commonwealth shall reimburse each county 80% of the amount expended by the county for such compensation and travel allowance beyond the first three days of service if the juror is participating in a trial or in grand jury proceedings. Application for reimbursement shall be made by the county to the State Treasurer through the Administrative Office pursuant to procedures prescribed by said office.	42 Pa.C.S.A. § 4561.		Varies by county e.g. Prothonotaries and second Class Counties: A \$50.00 jury fee when case is placed at issue or appeal from arbitration demanding a jury trial. 42 P.S. § 21042.
RI	3	\$5,000	\$15 per day.	State appropriation.	RI ST § 9-29-5.		Does not appear to be a jury demand fee. See www.courts.ri.gov/Courts/SuperiorCourt/PDF/Fees.pdf.
SC	3	none	5 cents per mile and a daily compensation that varies from county to county.	County.	S.C. Code Ann. § 4-1-130		Does not appear to be a jury demand fee. See http://www.judicial.state.sc.us/clerkscourt/ccFileFee.cfm.
SD	3	none	\$50 per day plus 37 cents per mile.	County.	SDCL § 16-13-46; 16-13-47.1.		For any of the following, twenty-five dollars:(a) Civil cases filed for jury or court trial . . . S.D. Codified Laws § 16-2-29.
TN	1	none	At least \$10 per day but can vary by county. Mileage at 10 cents per mile if county permits.	County.	T.C.A. § 22-4-101; T.C.A. § 22-4-104		Jury Expenses/Court Costs. Jury expenses may be assessed as court costs and may be taxed to a party or parties in cases settled within forty-eight (48) hours of trial date. The forty-eight (48) hour rule shall exclude weekends. TN R 31 DIST PRAC Rule 7.04.



TX	2	none	Not less than \$6 a day for first day and not less than \$40 per day for each day after.	Paid out of the jury find of the county.	V.T.C.A. § 61.001.		Unless otherwise provided by law, a fee of ten dollars if in the district court and five dollars if in the county court must be deposited with the clerk of the court within the time for making a written request for a jury trial. TX Rules of Civ. Pro., Rule 26.
UT	4	none	\$18.50 for the first day and \$49 for each day after. If traveling more than 50 miles, \$1 for each four miles in excess of 50 miles traveled.	The state is responsible for all fees and expenses authorized by law for jurors in the courts of record. For these payments, the Judicial Council shall receive an annual appropriation contained in a separate line item appropriation.	U.C.A 1953 § 78B-1-117, 119.		The fee for filing a demand for a civil jury is \$250. Utah Code Ann. § 78A-2-301 (West)
VT	3	none	\$30 per day, unless the juror is otherwise compensated by their employer. Upon showing of hardship, reimbursement for expenses necessarily incurred for travel to and from court.	N/A	32 V.S.A. § 1511		Does not appear to be a jury demand fee. Vt. Stat. Ann. tit. 32, § 1431 (West).
VA	2	\$4,500	\$30 per day and boarding when necessary.	Jurors in all civil cases shall be paid by the political subdivision in which the summons is issued.	VA ST § 17.1-618		N/A
WA	3	none	Grand jurors up to \$25 per day but not less than \$10. Petite jurors up to \$25 per day but not less than \$10. Coroner's jurors up to \$25 per day but not less than \$10. District court jurors up to \$25 per day but not less than \$10. All get mileage at statutory rate.	Appears to be paid by county.	RCWA 2.36.150		(b) Demand for Jury. At or prior to the time the case is called to be set for trial, any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing, by filing the demand with the clerk, and by paying the jury fee required by law. Wash. Super. Ct. Civ. R. 38. (d) For demanding a jury in a civil case a fee of one hundred twenty-five dollars to be paid by the person demanding a jury. Wash. Rev. Code Ann. § 3.62.060 (West)
WV	2	\$20 or if claim involves real estate	Mileage at state rate plus a daily rate of between \$15 and \$40. Meals and lodging paid when necessary.	State treasury.	W. Va. Code § 52-1-17		Actual cost. Be aware that if you elect to have a jury brought in, a jury fee will be assessed against the losing party, either you or the defendant, or the fee may be split between you and the defendant.
WI	3	none	Not less than \$16 per day plus mileage at statutory rate. Fees fixed by county board.	Appears to be payment by local county.	W.S.A. 756.25; 59.64(1)(g)1		For a jury in all civil actions, except a garnishment action . . . A nonrefundable fee of \$6 per juror demanded to hear the case to be paid by the party demanding a jury trial within the time permitted to demand a jury trial. If the jury fee is not paid, no jury may be called in the action . . . WI ST §14.61.
WY	4	none	\$30 per day plus mileage at state rate if greater than 5 miles traveled. If more than 5 days, an extra \$20 per day at court's discretion.	N/A	W.S. 1977 § 1-11-303; 1-11-302		Jury demand shall be accompanied with deposit as follows: If in district court, \$50 for 6 person jury and \$150 for 12 person jury. If in circuit courts, \$50. Deposits paid to the Clerk of Court who then pays to country treasury at close of each month. Jury fees taxed as costs by clerk to losing party. Wyoming Rules of Civil Procedure, Rule 38.

# **EXHIBIT 5**

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# Louisiana District Judges Association

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**To: Blake Hanson, WDSU**  
**Date: January 15, 2014**  
**Re: District Judges Association Media Comment Jury Threshold**

This is offered as a response to your request for an opinion of the Louisiana District Judges Association regarding civil jury trial thresholds in the trial courts of Louisiana.

In the past when this issue has arisen, whether through proposed legislation, or through media commentary, the LDJA has consistently expressed that lowering the civil jury trial threshold would cause disruption and difficulty across the state in the docketing and management of jury trials. Further, lowering those thresholds will result in escalating costs to the litigants and severe time management issues. It is also important to note that the current system of summoning and seating a civil jury venire is vastly different in each district. Factors which influence the jury trial process include (1) the availability and willingness of citizens to serve as jurors; (2) the inconvenience and financial burden such service places on citizens; and (3) the financial burden placed upon the parish government as well as the challenges imposed on the clerks of court in scheduling, coordinating and managing the additional jurors.

The relative jurisdiction of a particular court is also an important consideration. For example, in multi-jurisdictional districts, a greater number of civil jury trials may result in less criminal jury trials and a back-log of criminal cases. Other factors weighing against lowering the jury trial thresholds are the number of judges within a district, the rural or urban setting of each court, and the resources available to a particular district.

Therefore, in light of the above, the Association would encourage more extensive research to be conducted exploring the differing factors and varied circumstances of each district when reporting on this multi-faceted issue. Thank you for your inquiry of the Louisiana District Judges Association.

Sincerely Yours,



Judge Raymond Childress  
LDJA President

cc: LDJA Executive Committee

# **EXHIBIT 6**

**The public purpose and reasons why most other states have delictual prescriptive periods beyond one year.**

The general stated purpose for prescriptive periods is to prevent stale claims.

The majority of the information provided is from the Civil Code for each state with the notes to decisions.

**Alabama**

Ala. Code § 6-2-38-two years

**Notes to Decisions/Legislative Intent**

The listing of the two year period of limitations in §6-2-38(a) must be taken for what it is—nothing more and noting less. It is a part of a total compilation of periods of limitations for causes of action ranging from those with no limitations to causes of actions of twenty years to six months. The legislature, in its wisdom, saw fit to bring together in one place in the Code the periods of limitation applicable to various common law causes of action. The fact that it elected to include within this compilation the periods of limitations applicable to wrongful death in no way reflects any legislative intent to establish §6-2-38(a) as the source of the periods of limitations for such actions.

*Cofer v. Ensor*, 473 So. 2d 984, 54 A.L.R.4<sup>th</sup> 325, 1985 Ala. LEXIS 3678 (Ala. 1985)

**Alaska**

Alaska Stat. Ann. § 09.10.070 (West)- two years

**Notes to Decisions/Purpose**

The goal of the statute of limitations and the substituted services procedure is to provide speedy adjudication of claims.

*Byrne v. Ogle*, 488 P.2d 716 (Alaska 1971).

The purpose of statutes of limitations is to encourage promptness in the prosecution of actions and thus avoid the injustice which may result for the prosecution of stale claims.

*Byrne v. Ogle*, 488, P.2d 716 (Alaska 1971); *McCracken v. Davis*, 560 P.2d 771 (Alaska 1977); *Johnson v. City of Fairbanks*, 583 P.2d 181 (Alaska 1978).

Statutes of limitations attempt to protect against the difficulties caused by lost evidence, faded memories, and disappearing witnesses.

*McCracken v. Davis*, 560 P.2d 771 (Alaska 1977)

### **Arizona**

Ariz. Rev. Stat. Ann. § 12-542- two years

#### **Notes to Decisions/Construction and application**

Purpose of enacting a statute of limitation is to fix a limit within which an action must be brought and to prevent the unexpected enforcement of stale claims against person who have been thrown off their guard by want of prosecution.

*Hall v. Romero*, (App. Div. 1 1984) 141 Ariz. 120, 685 P.2d 757.

### **Arkansas**

Ark. Code Ann. § 16-56-105 (West)- 3 years

*No supporting arguments found.*

### **California**

Cal. Civ. Proc. Code § 335.1 (West) - two years (was originally one year.)

#### **Legislative Intent**

“Under the current law victims of personal injury and wrongful death are now required to file lawsuits within a year in order to meet unduly short statutes of limitations. Many such matters would be resolved without the need to resort to litigation if California’s statute of limitations permitted such

actions to filed within two years, as the vast majority of other states provided for a longer time to resolve claims short of litigation.”

NOTE: The legislature referred to the victims of the terrorist attacks of September 11, 2011 as the prime example for the amendment.

“Residents of California who were victims of the terrorist actions of September 11,2011 must prematurely choose between litigation and federal remedies, while residents of other states have more than twice as long to pursue their remedies.”

### **Colorado**

Colo. Rev. Stat. Ann. § 13-80-101 (West)- three years – (actions for fraud, misrepresentation, or concealment; tort actions for bodily injury or property damage arising out of the use or operation of a motor vehicle)

Colo. Rev. Stat. Ann. § 13-80-102 (West)- two years- (Tort actions, including but not limited to actions for negligence, trespass, malicious abuse of process, malicious prosecution, outrageous conduct, interference with relationships, and tortious breach of contract)

**Historical and Statutory Notes** - *No supporting arguments found.*

### **Connecticut**

Conn. Gen. Stat. Ann. § 52-584 (West) - two years (“discovery rule”- Malpractice) and 3 years for actions founded upon tort)

1969 Amendment. Increased the time within which to bring action two years from one year

#### **Notes to Decisions/Purpose**

The main purpose of the statute of limitations is to prevent enforcement of stale claims, so that witnesses may be available for defense.

*Dotolo v. Petrucelli*, (1966) 708 A.2d 221, 3 Conn.Cir.Ct. 687, certification denied 243 A.2d 82, 156 Conn. 662.

### **Delaware**

10 Del. C. § 8107- two years

**Notes to Decisions/ Legislative Intent**

The intent of the General Assembly is to permit actions for wrongful death provided they brought within the prescribed 2-year period, notwithstanding the provisions of Delaware's non-claims statute.

*Markham v. Scott*, 57 Del. 481, 189 A.2d 87, rev'd sub nom on other grounds, 57 Del.34, 195 A.2d247 (1963).

**District of Columbia**

D.C. Code § 12-301- three years

**Case Notes/Purpose**

Broad purposes of statutes of limitation are prevention of stale claims and unfair surprise.

D.C. Code § 12-301 (7, 8). *Macklin v. Spector Freight Systems, Inc.*, 478 F.2d 979, 1973 U.S. App. LEXIS 10026 (C.A.D.C. 1973).

**Florida**

Fla. Stat. Ann. § 95.11 (West)- four years

**Notes to decisions/Purpose**

Statutes of limitation are enacted to bar claims which have been dormant for a number of years and which have not been enforced by persons entitled to enforce them.

*Employers' Fire Ins. Co. v. Continental Ins. Co.*, 326 So.2d 177 (1976).

**Georgia**

Ga. Code Ann. § 9-3-33 (West)- two years

*No information found on legislative intent.*

**Hawaii**

Haw. Rev. Stat. § 657-7 (West)-two years

*No information found on legislative intent.*



## **Idaho**

## **Illinois**

735 Ill. Comp. Stat. Ann. 5/13-202-two years

*No information found on legislative intent.*

## **Indiana**

Ind. Code Ann. § 34-11-2-4 (West)-two years

*No information found on legislative intent.*

## **Iowa**

Iowa Code Ann. § 614.1 (West)- two years

### **Notes to Decisions/Purpose**

Purpose of statute of limitation is to prevent fraudulent and stale actions from arising after a great lapse of time when preserving for a reasonable period the right to pursue a claim.

Fitz v. Dolyak, C.A.8 (Iowa) 1983, 712 F.2d 330.

## **Kansas**

Kan. Stat. Ann. § 60-513 (West)- two years

*No information found on legislative intent.*

## **Kentucky**

*No information found on legislative intent.*

## **Louisiana**

La. Civ. Code Ann. art. 3492- one year

## **Maine**

Me. Rev. Stat. tit. 14, § 752- six years

Me. Rev. Stat. tit. 14, § 753- three years (actions for assault, battery, slander and libel)

### **Notes to Decision/Purpose**

Primary purpose of statutes of limitation is to keep stale claims out of court.  
*Williams v. Ford Motor Co.*, (1975) Me., 342 A.2d 712

### **Maryland**

Md. Code Ann., Cts. & Jud. Proc. § 5-101 (West)- 3 years

#### **General Consideration/Statute reflects legislative judgment.**

Statute of limitations reflects legislative judgment of what is deemed an adequate period of time in which a person of ordinary diligence should bring his action.

*Walko Corp. v. Burger Chef Sys.*, 281 Md. 207, 378 A.2d 1100 (1977)

### **Massachusetts**

Mass. Gen. Laws Ann. 260 § 2A (West)- three years

*No information found on legislative intent.*

### **Michigan**

M.C.L.A. § 600.5805 generally three years

**Historical and Statutory Notes** do not show why it is 3 and not 2 or 1.

Cases listed under **Notes of Decisions 3. Purpose** only address public policy of a short term vs. a very long term, and under which provision a case should fall.

### **Minnesota**

Minn. Stat .Ann. § 541.01 et seq. (West 2014)

Minn. Stat .Ann. § 541.07 (West 2014) generally two years

**Historical and Statutory Notes** do not show why it is 2 and not 3 or 1.

Cases listed under **Notes of Decisions 3. Nature and purpose of statutory limitation** only address necessity and convenience: stale claims, faded memories, lost evidence, etc.

1945 Minn. Laws 1006, Chapter 513, amending Minn. Stat. § 541.07 is silent as to purpose.

The Revised Statutes, of the Territory of Minnesota, Passed at the Second Session of the Legislative Assembly, Commencing January 1, 1851, Chapter 70 list six and two years, and other numbers, but are silent as to why.

### **Mississippi**

Miss. Code Ann. § 15-1-1 et seq. (West 2014)

Miss. Code Ann. § 15-1-49 (West 2014) three years

Miss. Code Ann. § 15-1-35 (West 2014) one year for listed intentional torts

**Historical and Statutory Notes** do not show why

The article Legislative Reform of Statutes of Limitations in Mississippi: Proposed Interpretations, Possible Problems . Jackson, Jeffrey, 9 Miss C.L. Rev. 231 (1989) discusses generalities, but not the specific time limits chosen. The medical malpractice statute's three year limit would tend to favor defendants; in 1976 it was reduced from 6 to 2 years.

### **Missouri**

Mo. Ann. Stat. § 516.97 et seq. (West 2014) five years, medical malpractice: two years

**Historical and Statutory Notes** do not show why

The Revised Statutes of the State of Missouri 1929, §862 states five years.

Missouri Statutes of Limitation, McCarter, W. Dudley, 54 J.Mo.B. 35 (1998) discusses the various statutes, but makes no mention of legislative intent.

### **Montana**

Mont. Code Ann. § 27-2-101 et seq. (2013) three years

History: Complete Codes and Statutes of the State of Montana in Force July 1, 1895, Code of Civil Procedure, sec. 510 et seq. Periods of ten, five, three, two, one year, and six months listed, no reasons given for lengths chosen.

### **Nebraska**

Neb. Rev. Stat. Ann. § 25-201 et seq. (LexisNexis 2013) four years

Neb. Rev. Stat. Ann. § 25-208 (LexisNexis 2013) medical malpractice: two years

*No information found on legislative intent.*

### **Nevada**

Nev. Rev. State. Ann. §11.010 et seq. (LexisNexis 2013) two years; intentional torts one year

History:

Nevada Compiled Laws 1929, §8524 two years for intentional torts and wrongful death. Nevada Compiled Laws 1929, §8527 four years all others. No information available on legislative intent.

### **New Hampshire**

N.H. Rev. Stat. Ann. § 508:1 et seq. (LexisNexis 2014) three years

History:

Revised Statutes of the State of New Hampshire Passed December 23, 1842. Chapter 181:3 intentional torts two years, Chapter 181:4 all other personal actions six years. No information available on legislative intent.

### **New Jersey**

N.J. Stat. Ann. § 2A:14-1 et seq. (West 2014) two years

**Historical and Statutory Notes;**

Revision of the Statutes of New Jersey 1 (1877) p. 594 § 1 et seq. make no mention of legislative intent.

**Notes of Decisions, Purpose of law:** Cases discuss preventing stale claims and promoting repose. No mention of why six years and not two or three.

### **New Mexico**

N.M. Stat. Ann. § 37-1-1 et seq. (LexisNexis 2014) three years

*No information found on legislative intent.*

### **New York**

N.Y. Civ. Prac. Laws & Rules § 201 et seq. (McKinney 2014) three years

#### **Historical and Statutory Notes**

Acts Affecting the Revised Statutes; and Other Acts of General Interest, Passed During the Sessions of the Legislature Held In 1846, 1847, 1848. CODE OF PRACTICE IN CIVIL ACTIONS, An act to simplify and abridge the practice, pleadings and proceedings of the courts of this State. Passed April 12, 1848. Chap. 379 § 71 : six years. No mention of legislative intent.

### **North Carolina**

N.C. Gen. Stat. § 1-46 et seq. (2013) three years

#### **Case Notes**

Purpose is to afford security against stale claims, no reason for three years instead of two.

The Code of Civil Procedure of North Carolina, to Special Proceedings (1868), section 34 does not state legislative intent.

### **North Dakota**

N.D. Cent. Code § 28-01-01 et seq. (2013) six years

### **Case Notes, In General:**

Statutes of limitations are to designed to prevent stale claims; no mention of why six year period.

### **Source:**

Revised Codes of the Territory of Dakota. A.D. 1877: Comprising the Codes and General Statutes Passed at the Twelfth Session of the Legislative Assembly, and All Other General Laws Remaining in Force hosen. § 54 et seq. six years, no mention of legislative intent.

### **Ohio**

Ohio Rev. Code Ann. § 2305.03 et seq. (LexisNexis 2014) two years

*No information found on legislative intent.*

### **Oklahoma**

Okla. Stat. Ann. tit. 12, § 91 et seq. (West 2015) two years

### **History:**

Revised Laws of Oklahoma 1910: Being a Compilation, Classification and Revision of All General Laws of the State of Oklahoma in Force and Effect on the 25th Day of February, 1911. § 4657 two year. No legislative intent indicated.

### **Oregon**

Or. Rev. Stat. §12.010 et seq. (2013) two year intentional torts, ten years negligence

*No information found on legislative intent.*

### **Pennsylvania**

42 Pa. Cons. Stat. Ann. § 5501 (West 2014) two years

### **Notes of Decisions:**

Limitations serve to expedite litigation and limit stale claims.

### **Rhode Island**

R.I. Gen. Laws § 9-1-12 et seq. (2012) three years

#### **History:**

General Laws of Rhode Island: Revision of 1909, Chapter 284 makes no mention of legislative intent.

### **South Carolina**

S.C. Code Ann. § 15-3-510 et seq. (2014) three years

#### **History:**

South Carolina - General Assembly, General & Permanent Laws, Regular Session, 1988 vol. 65 pt. 2 v. I (1988) Act # 432 reduced limitation from six years to three years. No mention in act why this was done.

### **South Dakota**

S.D. Codified Laws § 15-2-14- three years

S.D. Codified Laws § 15-2-14.1-Medical Malpractice- two years

*No information found on legislative intent.*

### **Tennessee**

Tenn. Code Ann. § 28-3-104 (West)- 1 year

*No information found on legislative intent.*

### **Texas**

Tex. Civ. Prac. & Rem. Code Ann. § 16.003 (West)- two years

#### **Notes of Decisions/Purposes**

The primary purpose of two-year statute of limitations for causes of action involving personal injury is to compel the exercise of right of action within a

reasonable time so that the opposing party has a fair opportunity to defend while witnesses are available.

*Cronen v. City of Pasadena*, (App. 1 Dist. 1992) 835 S.W.2d 206.

### **Utah**

Utah Code Ann. § 78B-2-307 (West)-four years

*No information found on legislative intent.*

### **Vermont**

Vt. Stat. Ann. tit. 12, § 512 (West)-three years

*No information found on legislative intent.*

### **Virginia** (Check Virginia Again)

Va. Code Ann. § 8.01-243 (West)-two years

### **Decisions under Current Law/Purpose**

Statutes of limitation are designed to compel the prompt assertion of an accrued right of action; not to bar such a right before it has accrued.

*Locke v. Johns-Manville Corp.*, 221 Va. 951, 275 S.E.2d 900 (1981).

### **Washington**

Wash. Rev. Code Ann. § 4.16.080 (West)-three years

*No information found on legislative intent.*

### **West Virginia** (Look up 62 W.Va. L. Rev. 360 (1960))

W. Va. Code Ann. § 55-2-12 (West)-two years

### **Wisconsin**

Wis. Stat. Ann. § 893.54 (West)-three years

### **Wyoming**



Wyo. Stat. Ann. § 1-3-105 (West)-four years