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**EXPEDITED JURY TRIALS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian S. King**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates a new part in Title 78B, Chapter 3, allowing for expedited jury trials.

**Highlighted Provisions:**

This bill:

- ▶ creates Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, as a pilot project;
- ▶ defines terms;
- ▶ requires that all parties to an action agree to participate;
- ▶ requires the Judicial Council to create rules regarding:
  - content of consent orders;
  - time limits for jury selection and trial;
  - presentation of evidence and testimony; and
  - other procedures necessary to implement expedited jury trials;
- ▶ allows parties to set limits on damages;
- ▶ requires the court to approve if a party is self-represented, a minor, or incompetent;
- ▶ limits post-trial motions;
- ▶ requires a report to the Judiciary Interim Committee in 2015; and
- ▶ is repealed January 1, 2017.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63I-2-278**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and  
32 amended by Laws of Utah 2008, Chapter 382

33 ENACTS:

34 **78B-3-901**, Utah Code Annotated 1953

35 **78B-3-902**, Utah Code Annotated 1953

36 **78B-3-903**, Utah Code Annotated 1953

37 **78B-3-904**, Utah Code Annotated 1953

38 **78B-3-905**, Utah Code Annotated 1953

39 **78B-3-906**, Utah Code Annotated 1953

40 **78B-3-907**, Utah Code Annotated 1953

41 **78B-3-908**, Utah Code Annotated 1953

42 **78B-3-909**, Utah Code Annotated 1953

43 **78B-3-910**, Utah Code Annotated 1953

44 **78B-3-911**, Utah Code Annotated 1953

45 **78B-3-912**, Utah Code Annotated 1953



47 *Be it enacted by the Legislature of the state of Utah:*

48 Section 1. Section **63I-2-278** is amended to read:

49 **63I-2-278. Repeal dates, Title 78A and Title 78B.**

50 (1) Section 78A-9-103, Practicing law without a license, is repealed May 3, 2012.

51 (2) [~~Subsections 78B-12-301(1) and 78B-12-302(1) are repealed January 1, 2010.~~]

52 Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.

53 Section 2. Section **78B-3-901** is enacted to read:

54 **Part 9. Expedited Jury Trial**

55 **78B-3-901. Title.**

56 This part is known as the "Expedited Jury Trial Act."

57 Section 3. Section **78B-3-902** is enacted to read:

58 **78B-3-902. Definitions.**

59 For purposes of this part:

60 (1) "Consent order" means an order signed by all parties to an action and the court  
61 granting a motion for an expedited jury trial.

62 (2) "Expedited jury trial" means a consensual, binding jury trial before a reduced jury  
63 panel and a judge.

64 (3) "High/low agreement" means a written agreement entered into by the parties that  
65 specifies a minimum amount of damages a plaintiff is guaranteed to receive from the  
66 defendant, and a maximum amount of damages the defendant will be liable for, regardless of  
67 the ultimate verdict returned by the jury.

68 Section 4. Section **78B-3-903** is enacted to read:

69 **78B-3-903. Pilot project -- Rules and procedures.**

70 Beginning January 1, 2013, the Judicial Council shall authorize a pilot project using  
71 expedited jury trials as follows:

72 (1) All parties to an action shall agree to participation in an expedited jury trial.

73 (2) This part and rules promulgated by the Judicial Council pursuant to this part shall  
74 apply to expedited jury trials.

75 (3) Any matters not expressly addressed in this part, in the implementing rules of the  
76 court, or in a consent order authorized by this part and the implementing rules, are governed by  
77 applicable statutes and rules governing civil actions.

78 Section 5. Section **78B-3-904** is enacted to read:

79 **78B-3-904. Consent order -- High/low agreement.**

80 (1) An agreement to participate in an expedited jury trial under this part may be entered  
81 into only after a dispute has arisen and an action has been filed.

82 (2) Any party to an action may file a motion with the court for an expedited jury trial.  
83 The motion shall be accompanied by a consent order, including a proposed high/low  
84 agreement.

85 (3) Notice of the motion shall be served on all other parties with the consent order and  
86 proposed high/low agreement.

87 (4) All parties agreeing to participate in an expedited jury trial and, if represented, their  
88 counsel shall sign the consent order granting an expedited jury trial.

89 (5) The agreement to participate in the expedited jury trial process is binding upon the

90 parties unless:

91 (a) all parties stipulate to end the agreement to participate; or

92 (b) the court, on its own motion or at the request of a party by noticed motion, finds  
93 that good cause exists for the action not to proceed under the provisions of this part.

94 (6) The proposed consent order submitted to the court shall include:

95 (a) a preliminary statement that each named party and any insurance carrier responsible  
96 for providing coverage or defense on behalf of that party, individually identified in the  
97 proposed consent order have:

98 (i) been informed of the rules and procedures for an expedited jury trial;

99 (ii) been provided with a Judicial Council information sheet regarding expedited jury  
100 trials;

101 (iii) agreed to take part in or, in the case of a responsible insurance carrier, not object to  
102 the expedited jury trial process; and

103 (iv) agreed to all the specific provisions set forth in the consent order; and

104 (b) the parties' signed agreement that:

105 (i) all parties waive all rights to appeal, to move for directed verdict, or make any  
106 post-trial motions, except as provided in Sections 78B-3-908 and 78B-3-909;

107 (ii) each side is limited to three hours in which to present its case;

108 (iii) the jury shall be composed of eight or fewer jurors with no alternates; and

109 (iv) each side is limited to three peremptory challenges, unless the court permits an  
110 additional challenge in cases with more than two sides as provided in Section 78B-3-905.

111 (7) The court shall grant the consent order as proposed by the parties, unless the court  
112 finds good cause why the action should not proceed through the expedited jury trial process, in  
113 which case the court shall deny the proposed consent order in its entirety.

114 Section 6. Section **78B-3-905** is enacted to read:

115 **78B-3-905. Juries.**

116 (1) Juries in expedited jury trial cases shall be composed of eight jurors with no  
117 alternates, unless the parties have agreed to fewer.

118 (2) Each side shall be allowed three peremptory challenges. If the court determines  
119 there are more than two parties in a case and more than two sides, the parties may request one  
120 additional peremptory challenge each, which may be granted by the court in its discretion.

121 (3) Neither the existence of, nor the amounts contained in any high/low agreements,  
122 may be disclosed to the jury.

123 (4) Nothing in this part is intended to preclude a jury from deliberating as long as  
124 needed.

125 Section 7. Section **78B-3-906** is enacted to read:

126 **78B-3-906. Rules of evidence.**

127 (1) The rules of evidence apply in expedited jury trials, unless the parties stipulate  
128 otherwise.

129 (2) Any stipulation by the parties to use relaxed rules of evidence may not be construed  
130 to eliminate or affect the right of a witness or party to invoke any applicable privilege or other  
131 law protecting confidentiality.

132 (3) The right to issue subpoenas and notices to appear to secure the attendance of  
133 witnesses or the production of documents at trial shall be in accordance with the Utah Rules of  
134 Civil Procedure.

135 Section 8. Section **78B-3-907** is enacted to read:

136 **78B-3-907. Verdict.**

137 (1) The verdict in an expedited jury trial case is binding, subject to any written  
138 high/low agreement or other stipulations concerning the amount of the award agreed upon by  
139 the parties.

140 (2) A vote of six of the eight jurors is required for a verdict.

141 Section 9. Section **78B-3-908** is enacted to read:

142 **78B-3-908. Directed verdict not allowed -- Verdict not to be set aside.**

143 (1) By agreeing to participate in the expedited jury trial process, the parties agree to  
144 waive any motions:

145 (a) for a directed verdict;

146 (b) to set aside the verdict or any judgment rendered by the jury; or

147 (c) for a new trial on the basis of inadequate or excessive damages.

148 (2) Except for the grounds stated in Section 78B-3-909, the court may not:

149 (a) set aside any verdict or any judgment;

150 (b) direct that judgment be entered in favor of a party entitled to judgment as a matter  
151 of law; or

152 (c) order a new trial.

153 Section 10. Section **78B-3-909** is enacted to read:

154 **78B-3-909. Post-trial motions -- Appeals.**

155 (1) Except as provided in this section, a party waives all rights to post-trial motions or  
156 appeals from a verdict in an expedited jury trial.

157 (2) A party may move for a new trial or appeal a judgement only on the following  
158 grounds:

159 (a) judicial misconduct that materially affected the substantial rights of a party;

160 (b) misconduct of the jury; or

161 (c) corruption, fraud, or other undue means employed in the proceedings of the court,  
162 jury, or adverse party that prevented a party from having a fair trial.

163 (3) Within 10 days of the entry of a jury verdict, a party may file with the clerk and  
164 serve on each adverse party a notice of the party's intention to move for a new trial on any of  
165 the grounds specified in Subsection (2). The notice shall be considered a motion for a new  
166 trial.

167 (4) Parties may file post-trial motions:

168 (a) relating to costs and attorney fees;

169 (b) to correct a clerical error in a judgment; and

170 (c) to enforce a judgment.

171 (5) Before filing an appeal, a party shall file a motion for a new trial under Subsection

172 (3). If the motion for a new trial is denied, the party may appeal the judgment to the  
173 appropriate court with appellate jurisdiction and seek a new trial on any grounds specified in  
174 Subsection (2).

175 Section 11. Section **78B-3-910** is enacted to read:

176 **78B-3-910. Attorney fees.**

177 Unless the parties otherwise agree in the consent order, all statutes and rules governing  
178 costs and attorney fees apply in expedited jury trials.

179 Section 12. Section **78B-3-911** is enacted to read:

180 **78B-3-911. Judicial Council to make rules.**

181 The Judicial Council shall, on or before January 1, 2013, adopt rules and forms to  
182 establish uniform procedures implementing the provisions of this part, including:

- 183           (1) additional content of proposed consent orders;
- 184           (2) pretrial exchanges and submissions;
- 185           (3) pretrial conferences;
- 186           (4) time limits for jury selection;
- 187           (5) time limits for trial, including presentation of evidence and argument;
- 188           (6) presentation of evidence and testimony; and
- 189           (7) any other procedures necessary to implement this part.

190           Section 13. Section **78B-3-912** is enacted to read:

191           **78B-3-912. Report to Legislature -- Repeal date.**

192           (1) The Administrative Office of the Courts shall present a report to the Judiciary  
193 Interim Committee not later than September 2016 regarding the program. The report shall  
194 include:

- 195           (a) the number of expedited jury trials held;
- 196           (b) the number of appeals from expedited jury trials;
- 197           (c) the approximate cost increase or cost savings experienced by using expedited jury  
198 trials; and
- 199           (d) a recommendation to continue or sunset the part.
- 200           (2) This part is repealed January 1, 2017.

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**Legislative Review Note**  
as of 2-4-11 9:33 AM

**Office of Legislative Research and General Counsel**