

Senate Bill No. 586

(By Senator Palumbo)

[Introduced February 14, 2014; referred to
the Committee on the Judiciary.]

A BILL to repeal §55-7B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §56-6-11 of said code, relating to removing unconstitutional language regarding the number of jurors and types of verdicts in certain civil litigation.

Be it enacted by the Legislature of West Virginia:

That §55-7B-6d of the Code of West Virginia, 1931, as amended, be repealed; and that §56-6-11 of said code be amended and reenacted to read as follows:

ARTICLE 6. TRIAL.

§56-6-11. Execution of order of inquiry and trial of case by court; six-member jury in civil trials; twelve-member jury in eminent domain and criminal trials.

1 (a) The court, in an action at law, if neither party requires
2 a jury, or if the defendant has failed to appear and the
3 plaintiff does not require a jury, shall ascertain the amount
4 the plaintiff is entitled to recover in the action, if any, and
5 render judgment accordingly. In any case, in which a trial by
6 jury would be otherwise proper, the parties or their counsel,
7 by consent entered of record, may waive the right to have a
8 jury, and thereupon the whole matter of law and fact shall be
9 heard and determined, and judgment given by the court.
10 Absent such waiver, in any civil trial a jury shall consist of
11 six members and in any criminal trial a jury shall consist of
12 twelve members.

13 (b) The provisions of this section do not apply to any
14 proceeding had pursuant to article two, chapter fifty-four of
15 this code, the provisions of which apply to all cases involving
16 the taking of property for a public use.

17 ~~(c) The provisions of this section providing for a six~~
18 ~~member jury trial do not apply to any proceeding had~~
19 ~~pursuant to article seven-b, chapter fifty-five of this code, the~~

- 20 ~~provisions of which apply to all cases involving a medical~~
21 ~~professional liability action.~~

(NOTE: The purpose of this bill is to remove unconstitutional language regarding the number of jurors and types of verdicts permitted in certain civil litigation, following the West Virginia Supreme Court of Appeals decision in *Louk v. Cormier*, 218 W. Va. 81, 622 S.E.2d 788 (2005).

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)