

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 plaintiff
3 does not require a jury, shall ascertain the amount the plaintiff
4 is entitled to recover in the action, if any, and render judgment
5 accordingly. In any case, in which a trial by jury would be
6 otherwise proper, the parties or their counsel, by consent entered
7 of record, may waive the right to have a jury, and thereupon the
8 whole matter of law and fact shall be heard and determined, and
9 judgment given by the court. Absent such waiver, in any civil
10 trial a jury shall consist of six members and in any criminal trial
11 a jury shall consist of twelve members.

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

16 ~~(c) The provisions of this section providing for a six member~~
17 ~~jury trial do not apply to any proceeding had pursuant to article~~
18 ~~seven b, chapter fifty-five of this code, the provisions of which~~
19 ~~apply to all cases involving a medical professional liability~~
20 ~~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.)