

**JURY TRIAL AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

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

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**LONG TITLE**

**General Description:**

This bill provides for a jury of four persons in specific criminal cases.

**Highlighted Provisions:**

This bill:

► expands the right to a jury trial in criminal cases where the possibility of incarceration is unlikely, but the defendant is charged with theft, attempted theft, or domestic violence.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-1-6**, as enacted by Laws of Utah 1980, Chapter 15

**78B-1-104**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **77-1-6** is amended to read:

**77-1-6. Rights of defendant.**

(1) In criminal prosecutions the defendant is entitled to:



28 (a) [~~He~~] appear and defend himself in person [~~and defend in person~~] or by counsel;

29 (b) [~~He~~] receive a copy of the accusation filed against him;

30 (c) [~~He~~] testify in his own behalf;

31 (d) [~~He~~] be confronted by the witnesses against him;

32 (e) [~~He~~] have compulsory process to insure the attendance of witnesses [~~in~~] on his  
33 behalf;

34 (f) [~~He~~] a speedy public trial by an impartial jury of the county or district where the  
35 offense is alleged to have been committed;

36 (g) [~~He~~] the right of appeal in all cases; and

37 (h) [~~He~~] be admitted to bail in accordance with provisions of law, or be entitled to a  
38 trial within 30 days after arraignment if unable to post bail and if the business of the court  
39 permits.

40 (2) In addition:

41 (a) [~~No~~] a person [~~shall~~] may not be put twice in jeopardy for the same offense;

42 (b) [~~No~~] an accused person [~~shall~~] may not, before final judgment, be compelled to  
43 advance money or fees to secure rights guaranteed by the Constitution or the laws of Utah, or  
44 to pay the costs of those rights when received;

45 (c) [~~No~~] a person [~~shall~~] may not be compelled to give evidence against himself;

46 (d) a wife [~~shall~~] may not be compelled to testify against her husband nor a husband  
47 against his wife; and

48 (e) [~~No~~] a person [~~shall~~] may not be convicted [~~unless~~] except:

49 (i) by verdict of a jury[~~, or~~];

50 (ii) by judgment of a court upon a plea of guilty or no contest, or [~~upon a judgment of a~~  
51 ~~court~~] when trial by jury has been waived; or[~~;~~]

52 (iii) in the case of an infraction in which the defendant has not been charged with theft,  
53 attempted theft, or domestic violence as defined in Section 77-36-1, upon a judgment by a  
54 magistrate.

55 Section 2. Section **78B-1-104** is amended to read:

56 **78B-1-104. Jury composition.**

57 (1) A trial jury consists of:

58 (a) 12 persons in a capital case;

59 (b) eight persons in a noncapital first degree felony aggravated murder or other  
60 criminal case which carries a term of incarceration of more than one year as a possible sentence  
61 for the most serious offense charged;

62 (c) six persons in a criminal case which carries a term of incarceration of more than six  
63 months but not more than one year as a possible sentence for the most serious offense charged;

64 (d) four persons in a criminal case which;

65 (i) carries a term of incarceration of six months or less as a possible sentence for the  
66 most serious offense charged; or

67 (ii) carries no term of incarceration, but charges the defendant with theft, attempted  
68 theft, or domestic violence as defined in Section 77-36-1; and

69 (e) eight persons in a civil case at law except that the jury shall be four persons in a  
70 civil case for damages of less than \$20,000, exclusive of costs, interest, and attorney fees.

71 (2) Except in the trial of a capital felony, the parties may stipulate upon the record to a  
72 jury of a lesser number than established by this section.

73 (3) (a) The verdict in a criminal case shall be unanimous.

74 (b) The verdict in a civil case shall be by not less than three-fourths of the jurors.

75 (4) There is no jury in the trial of small claims cases.

76 (5) There is no jury in the adjudication of a minor charged with what would constitute  
77 a crime if committed by an adult.

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Legislative Review Note  
as of 11-23-09 3:18 PM

Office of Legislative Research and General Counsel

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**H.B. 204 - Jury Trial Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enacting this legislation will require \$213,900 in ongoing General Fund for increased Courts and jury costs.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
General Fund	\$0	\$213,900	\$213,900	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$213,900</b>	<b>\$213,900</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.