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_____ BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO COURTS; MAKING THE MAGISTRATE COURT A COURT OF RECORD; PROVIDING THAT APPEALS FROM MAGISTRATE COURT ARE MADE TO THE COURT OF APPEALS; REPEALING SECTIONS 35-13-2, 35-13-3, 39-2-5 AND 39-2-6 NMSA 1978 (BEING LAWS 1975, CHAPTER 242, SECTION 10, LAWS 1968, CHAPTER 62, SECTION 151 AND LAWS 1865, CHAPTER 45, SECTIONS 3 AND 4, AS AMENDED); MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 35, Article 13 NMSA 1978 is enacted to read:

"[NEW MATERIAL] MAGISTRATE COURT--APPEALS--RIGHT OF APPEAL.--A magistrate court is not a court of record for civil actions brought pursuant to the Uniform Owner-Resident Relations Act. Any party aggrieved by a judgment rendered by a .226787.2SA

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1 magistrate court in a civil action brought pursuant to the
2 Uniform Owner-Resident Relations Act may appeal to the district
3 court of the county in which the magistrate court is located
4 within fifteen days after the judgment is rendered. The appeal
5 shall be de novo."

6 SECTION 2. Section 34-5-9 NMSA 1978 (being Laws 1966,
7 Chapter 28, Section 9) is amended to read:

8 "34-5-9. COURT OF APPEALS--PROCEDURE FOR APPEALS [~~FROM~~
9 ~~DISTRICT COURT~~].--Unless otherwise provided by rule of
10 procedure, appeals to the court of appeals shall be taken [~~from~~
11 ~~the district court~~] in the manner prescribed for appeals to the
12 supreme court."

13 SECTION 3. Section 35-1-1 NMSA 1978 (being Laws 1968,
14 Chapter 62, Section 3) is amended to read:

15 "35-1-1. MAGISTRATE COURT--ESTABLISHMENT.--There is
16 established the "magistrate court" as a court of limited
17 original jurisdiction within the judicial department of the
18 state government. Personnel of the magistrate court are
19 subject to all laws and regulations applicable to other state
20 offices and agencies and to other state officers and employees
21 except where otherwise provided by law. The magistrate court
22 is [~~not~~] a court of record."

23 SECTION 4. Section 35-3-9 NMSA 1978 (being Laws 1968,
24 Chapter 62, Section 54, as amended) is amended to read:

25 "35-3-9. JURISDICTION--CONTEMPT.--A magistrate has

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1 jurisdiction to punish for contempt only for disorderly
2 behavior or breach of the peace tending to interrupt or disturb
3 a judicial proceeding in progress before the magistrate or for
4 disobedience of any lawful order or process of [~~his~~] the
5 magistrate's court. No person shall be punished for contempt
6 of the magistrate court until given an opportunity to be heard
7 in [~~his~~] the person's defense. Any person convicted under this
8 section may appeal to the [~~district~~] court of appeals in the
9 same manner as in other criminal actions in the magistrate
10 court."

11 SECTION 5. Section 35-4-2 NMSA 1978 (being Laws 1968,
12 Chapter 62, Section 66) is amended to read:

13 "35-4-2. CIVIL ACTIONS--EXEMPTIONS.--

14 A. Exemptions of personal property provided in
15 Sections [~~24-5-1 through 24-5-13 New Mexico Statutes Annotated,~~
16 ~~1953 Compilation~~] 42-10-1 through 42-10-7 NMSA 1978 apply to
17 all executions in civil actions in the magistrate court and to
18 attachment, garnishment, replevin and forcible entry or
19 detainer. The person entitled to the exemption or [~~his~~] the
20 person's agent or attorney shall claim the exemption by filing
21 as a part of the action pending in the magistrate court a list
22 of the particular property claimed to be exempt and a statement
23 of the grounds for the exemption. The list may be filed at any
24 time before sale of the property or before money garnished is
25 paid to the plaintiff.

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1 B. Upon the filing of a list of claimed exemptions,
2 the magistrate shall notify the plaintiff in the action that
3 claim of exemption has been made for the property specified in
4 the list and notify both parties of a time set for hearing on
5 the claim of exemption. At the time set for hearing, the
6 magistrate shall receive evidence, determine the issues and
7 enter judgment on the claim of exemption.

8 C. If judgment on the claim of exemption is
9 rendered after expiration of the time for appeal on the main
10 issue in the action, either party aggrieved by the judgment on
11 the claim of exemption may appeal from that judgment to the
12 [~~district~~] court of appeals in the same manner as other appeals
13 from final judgments of the magistrate court are taken. If
14 judgment on the claim of exemption is rendered before judgment
15 on the main issue in the cause, the judgment on the claim of
16 exemption shall be deemed interlocutory and included within any
17 appeal taken on the main issue in the action."

18 **SECTION 6.** Section 35-13-1 NMSA 1978 (being Laws 1968,
19 Chapter 62, Section 148, as amended) is amended to read:

20 "35-13-1. APPEALS--RIGHT OF APPEAL.--Any party aggrieved
21 by any judgment rendered or final order issued by the
22 magistrate court in any civil action or special statutory
23 proceeding, or the defendant aggrieved by any judgment rendered
24 or final order issued by the magistrate court in any criminal
25 action, may appeal to the [~~district~~] court of appeals within

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1 fifteen days after judgment is rendered or the final order is
2 issued in the magistrate court."

3 SECTION 7. APPROPRIATION.--Three hundred thousand dollars
4 (\$300,000) is appropriated from the general fund to the
5 administrative office of the courts for expenditure in fiscal
6 year 2025 and subsequent fiscal years to support on-record
7 proceedings in the magistrate courts. Any unexpended or
8 unencumbered balance remaining at the end of a fiscal year
9 shall not revert to the general fund.

10 SECTION 8. REPEAL.--Sections 35-13-2, 35-13-3, 39-2-5 and
11 39-2-6 NMSA 1978 (being Laws 1975, Chapter 242, Section 10,
12 Laws 1968, Chapter 62, Section 151 and Laws 1865, Chapter 45,
13 Sections 3 and 4, as amended) are repealed.

14 SECTION 9. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2025.