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HOUSE BILL 274

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO THE COURTS; AMENDING THE VENUE STATUTE TO CLARIFY
VENUE FOR WRONGFUL DEATH CASES.

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

SECTION 1. Section 38-3-1 NMSA 1978 (being Laws 1875-
1876, Chapter 2, Section 1, as amended) is amended to read:

"38-3-1. COUNTY IN WHICH CIVIL ACTION IN DISTRICT COURT
MAY BE COMMENCED.--All civil actions commenced in the district
courts shall be brought and shall be commenced in counties as
follows and not otherwise.

A. First, except as provided in Subsection F of
this section relating to foreign corporations, all transitory
actions shall be brought in the county where either the
plaintiff or defendant, or any one of them in case there is
more than one of either, resides; or second, in the county

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underscored material = new
[bracketed material] = delete

1 where the contract sued on was made or is to be performed or
2 where the cause of action originated or indebtedness sued on
3 was incurred; or third, in any county in which the defendant or
4 either of them may be found in the judicial district where the
5 defendant resides.

6 B. When the defendant [~~has rendered himself~~] is
7 liable to a civil action by any criminal act, suit may be
8 instituted against the defendant in the county in which the
9 offense was committed or in which the defendant may be found or
10 in the county where the plaintiff resides.

11 C. When suit is brought for the recovery of
12 personal property other than money, it may be brought as
13 provided in this section or in the county where the property
14 may be found.

15 D.

16 (1) When lands or any interest in lands [~~are~~]
17 is the object of any suit in whole or in part, the suit shall
18 be brought in the county where the land or any portion of the
19 land is situate.

20 (2) Provided that [~~where~~] if such lands are
21 located in more than one county and are contiguous, [~~that~~] the
22 suit may be brought as to all of the lands in any county in
23 which a portion of the lands is situate, with the same force
24 and effect as though the suit had been prosecuted in each
25 county in which any of the lands are situate. In all such

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1 cases in which suit is prosecuted in one county as to
2 contiguous lands in more than one county, notice of lis pendens
3 shall be filed pursuant to Sections 38-1-14 and 38-1-15 NMSA
4 1978 in each county. For purposes of service of process
5 pursuant to Rule [4] 1-004 of the *Rules of Civil Procedure for*
6 *the District Courts*, any such suit involving contiguous lands
7 located in more than one county shall be deemed pending in each
8 county in which any portion of the land is located from the
9 date of filing of the lis pendens notice.

10 E. Suits for trespass on land shall be brought as
11 provided in Subsection A of this section or in the county where
12 the land or any portion of the land is situate.

13 F. Suits may be brought against transient persons
14 or nonresidents in any county of this state, except that suits
15 against foreign corporations admitted to do business and
16 [~~which~~] that designate and maintain a statutory agent in this
17 state upon whom service of process may be had shall only be
18 brought in the county where the plaintiff, or any one of them
19 in case there is more than one, resides or in the county where
20 the contract sued on was made or is to be performed or where
21 the cause of action originated or indebtedness sued on was
22 incurred or in the county where the statutory agent designated
23 by the foreign corporation resides.

24 G. Suits against any state officers as such shall
25 be brought in the court of the county in which their offices

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[bracketed material] = delete

1 are located, at the capital or in the county where a plaintiff,
2 or any one of them in case there is more than one, resides,
3 except that suits against the officers or employees of a state
4 educational institution as defined in Article 12, Section 11 of
5 the constitution of New Mexico, as such, shall be brought in
6 the district court of the county in which the principal office
7 of the state educational institution is located or the district
8 court of the county where the plaintiff resides.

9 H. Notwithstanding any provision of this section,
10 when a personal representative brings an action pursuant to
11 Chapter 41, Article 2 NMSA 1978, it shall be brought in the
12 county in which the decedent resided at the time of death."

13 SECTION 2. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2011.