## HOUSE BILL 192

# 55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

## INTRODUCED BY

Daymon Ely

.221533.1

## AN ACT

RELATING TO TORTS; CLARIFYING THAT ABATEMENT SHALL NOT APPLY TO ASSAULT OR ASSAULT AND BATTERY CAUSES OF ACTION.

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

SECTION 1. Section 37-2-1 NMSA 1978 (being Laws 1884, Chapter 5, Section 1, as amended) is amended to read:

"37-2-1. [WHAT CAUSES OF ACTION SURVIVE] SURVIVAL OF

ACTIONS.--In addition to the causes of action [which] that
survive at common law, causes of action for mesne profits or
for an injury to real or personal estate or for any deceit or
fraud shall also survive, and the action may be brought,
notwithstanding the death of the person entitled or liable to
the same. The cause of action for wrongful death and the cause
of action for personal injuries shall survive the death of the
party responsible [therefor] for the death or injuries."

SECTION 2. Section 37-2-4 NMSA 1978 (being Laws 1884, Chapter 5, Section 2, as amended) is amended to read:

"37-2-4. ABATEMENT OF ACTIONS.--[SEC. 199.] No action pending in any court shall abate by the death of either or both the parties [thereto] to the action, except an action for libel, slander, malicious prosecution, [assault or assault and battery for a] nuisance or against a [justice of the peace] magistrate for misconduct in office, which shall abate by the death of the defendant."

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