

1 HOUSE BILL 172

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Andrea Romero

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10 AN ACT

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

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

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

17 "37-2-1. [~~WHAT CAUSES OF ACTION SURVIVE~~] SURVIVAL OF
18 ACTIONS.--In addition to the causes of action [~~which~~] that
19 survive at common law, causes of action for mesne profits or
20 for an injury to real or personal estate or for any deceit or
21 fraud shall also survive, and the action may be brought,
22 notwithstanding the death of the person entitled or liable to
23 the same. The cause of action for wrongful death and the cause
24 of action for personal injuries shall survive the death of the
25 party responsible [~~therefor~~] for the death or injuries."

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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."