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HOUSE BILL 1137

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

R. DAVID PEDERSON

AN ACT

RELATING TO COURTS; MODIFYING THE CONDITIONS AND PROCEDURES
REQUIRED FOR A CHANGE OF VENUE IN CIVIL AND CRIMINAL CASES.

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

Section 1. Section 38-3-3 NMSA 1978 (being Laws 1929,
Chapter 60, Section 1, as amended) is amended to read:

"38-3-3. CHANGE OF VENUE IN CIVIL AND CRIMINAL CASES. --

A. The venue in all civil and criminal cases shall
be changed by transfer, upon motion, to ~~[some]~~ a county free
from exception:

(1) whenever the judge is interested in the
result of the case or is related to or has been counsel for any
of the parties; or

(2) when the party moving for a change files in
the case an affidavit of himself, his agent or attorney, that he

Underscored material = new
[bracketed material] = delete

1 believes he cannot obtain a fair trial in the county in which
2 the case is pending because:

3 (a) the adverse party has undue influence
4 over the minds of the inhabitants of the county; [Ø]

5 (b) the inhabitants of the county are
6 prejudiced against the party; [Ø]

7 (c) because of public excitement or local
8 prejudice in the county in regard to the case or the questions
9 involved ~~[therein]~~ in the case, an impartial jury cannot be
10 obtained in the county to try the case; or

11 (d) any other cause stated in the
12 affidavit.

13 B. For the convenience of parties and witnesses, and
14 in the interest of justice, a district court may transfer any
15 civil action to any other county where it might have been
16 brought.

17 ~~[B-]~~ C. Any party in any civil or criminal case at
18 issue who desires a change of venue from the county in which the
19 case is pending ~~[and who objects to a change of venue to any~~
20 ~~other county within the same judicial district for any of the~~
21 ~~grounds stated in Subsection A of this section]~~ shall move for a
22 change of venue ~~[on or before the first day of any regular or~~
23 ~~special term of court.~~

24 ~~C. If the motion for change of venue is filed in~~
25 ~~vacation, five days' notice of the time and place of presenting~~

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[bracketed material] = delete

1 ~~the motion must be given to the opposite party or his attorney]~~
2 within ten days after the latter of:

3 (1) the filing of the first pleading or motion
4 by that party, except an entry of appearance; or

5 (2) a mailing by the clerk of a notice of
6 change of venue. "