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HOUSE BILL 181

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Al Park

AN ACT

RELATING TO THE COURTS; AMENDING AND REPEALING SECTIONS OF THE
NMSA 1978 REGARDING VENUE IN THE COURTS; DECLARING AN
EMERGENCY.

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, upon motion, to [some] another county free from
exception:

[(-1)] A. 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)] B. when the party moving for a change files

underscored material = new
[bracketed material] = delete

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1 in the case an affidavit of himself, his agent or attorney,
2 that he believes he cannot obtain a fair trial in the county in
3 which the case is pending because:

4 [~~(a)~~] (1) the adverse party has undue
5 influence over the minds of the inhabitants of the county; [~~or~~

6 ~~(b)~~] (2) the inhabitants of the county are
7 prejudiced against the party; [~~or~~

8 ~~(c) because~~] (3) of public excitement
9 or local prejudice in the county in regard to the case or the
10 questions involved [~~therein~~] in the case, an impartial jury
11 cannot be obtained in the county to try the case; or

12 [~~(d)~~] (4) of any other cause stated in
13 the affidavit.

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

21 [~~C. If the motion for change of venue is filed in~~
22 ~~vacation, five days' notice of the time and place of presenting~~
23 ~~the motion must be given to the opposite party or his~~
24 ~~attorney.] "~~

25 Section 2. REPEAL. -- Sections 38-3-5, 38-3-6 and 38-3-8

underscored material = new
[bracketed material] = delete

1 NMSA 1978 (being Laws 1929, Chapter 60, Section 2, Laws 1880,
2 Chapter 6, Section 10 and Laws 1889, Chapter 77, Section 4, as
3 amended) are repealed.

4 Section 3. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.

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