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FISCAL IMPACT REPORT

SPONSOR Kintigh ORIGINAL DATE 02/28/11
LAST UPDATED _____ HB 274
SHORT TITLE Clarify Venue for Wrongful Death Cases SB _____
ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 274 requires all wrongful death actions be brought in the county in which the decedent resided at the time of death.

FISCAL IMPLICATIONS

The AOC states that this bill is not expected to affect case filings or court operations. There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

The current venue statute provides plaintiffs with broad discretion in choosing where to file an action against a defendant. "Transitory actions," which include wrongful death and other torts, can be brought in the county where the plaintiff resides, in the county where the defendant resides, and in the county where the incident arose or occurred.

The AOC advises that New Mexico courts have noted that New Mexico's venue statute is expansive and provides plaintiffs with broad discretion in choosing where to bring an action. Caselaw recognizes that venue "relates to the convenience of litigants" and "reflect[s] equity or

expediency in resolving disparate interests of parties to a lawsuit in the place of trial."

The AOC suggests that the mandate that wrongful death actions be brought in the decedent's county of residence conflicts with the underlying goal of providing the plaintiff broad discretion in determining where to file an action, and may significantly inconvenience the parties to a wrongful death suit. HB 274 may also raise litigation costs significantly: for example, if an accident resulting in death occurs in San Juan county, and the decedent resided in Lea county, litigating the claim at significant distance from witnesses, evidence, and location of the incident would likely be more expensive, time-consuming, and inconvenient for the parties

ADMINISTRATIVE IMPLICATIONS

Certain wrongful death claims may take longer to litigate if the litigation occurs at significant distance from the location of the events giving rise to the action.

MD/bym