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HOUSE BILL 752

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

W. Ken Martinez

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO COURTS; EXTENDING THE PERIOD OF TIME FOR A PARTY TO FILE AN APPLICATION FOR AN INTERLOCUTORY APPEAL; REMOVING THE DEADLINE FOR COURT ACTION ON APPLICATION FOR AN INTERLOCUTORY APPEAL; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 39-3-4 NMSA 1978 (being Laws 1971, Chapter 40, Section 1) is amended to read:

"39-3-4. INTERLOCUTORY ORDER APPEALS FROM DISTRICT COURT. --

A. In any civil action or special statutory proceeding in the district court, when the district judge makes an interlocutory order or decision which does not practically dispose of the merits of the action and he believes the order or decision involves a controlling question

underscored material = new
[bracketed material] = delete

1 of law as to which there is substantial ground for difference
2 of opinion and that an immediate appeal from the order or
3 decision may materially advance the ultimate termination of
4 the litigation, he shall so state in writing in the order or
5 decision.

6 B. The supreme court or court of appeals has
7 jurisdiction over an appeal from such an interlocutory order
8 or decision, as appellate jurisdiction may be vested in
9 ~~[these]~~ those courts. Within ~~[ten]~~ fifteen days after entry
10 of the order or decision, any party aggrieved may file with
11 the clerk of the supreme court or court of appeals an
12 application for an order allowing an appeal, accompanied by a
13 copy of the interlocutory order or decision. ~~[If an~~
14 ~~application has not been acted upon within twenty days, it~~
15 ~~shall be deemed denied.]~~

16 C. Application under this section for an order
17 allowing appeal does not stay proceedings in the district
18 court unless so ordered by the district judge or a judge or
19 justice of the court to which application is made. "

20 Section 2. EFFECTIVE DATE. --The effective date of the
21 provisions of this act is July 1, 1999.