

HOUSE BILL 102

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Christine Chandler

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO COURTS; MAKING THE MAGISTRATE COURT A COURT OF RECORD; PROVIDING THAT APPEALS FROM MAGISTRATE COURT ARE MADE TO THE COURT OF APPEALS; REPEALING SECTIONS 35-13-2, 35-13-3, 39-2-5 AND 39-2-6 NMSA 1978 (BEING LAWS 1975, CHAPTER 242, SECTION 10, LAWS 1968, CHAPTER 62, SECTION 151 AND LAWS 1865, CHAPTER 45, SECTIONS 3 AND 4, AS AMENDED) H AFC →, ~~MAKING AN APPROPRIATION~~ ← H AFC.

.226787.2SAAIC February 3, 2024 (1:38pm)

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

SECTION 1. A new section of Chapter 35, Article 13 NMSA 1978 is enacted to read:

"[NEW MATERIAL] MAGISTRATE COURT--APPEALS--RIGHT OF APPEAL.--A magistrate court is not a court of record for civil actions brought pursuant to the Uniform Owner-Resident Relations Act HJC→or the Mobile Home Park Act←HJC . Any party aggrieved by a judgment rendered by a magistrate court in a civil action brought pursuant to the Uniform Owner-Resident Relations Act HJC→or the Mobile Home Park Act←HJC may appeal to the district court of the county in which the magistrate court is located within fifteen days after the judgment is rendered. The appeal shall be de novo."

SECTION 2. Section 34-5-9 NMSA 1978 (being Laws 1966, Chapter 28, Section 9) is amended to read:

"34-5-9. COURT OF APPEALS--PROCEDURE FOR APPEALS [~~FROM DISTRICT COURT~~].--Unless otherwise provided by rule of procedure, appeals to the court of appeals shall be taken [~~from the district court~~] in the manner prescribed for appeals to the supreme court."

SECTION 3. Section 35-1-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 3) is amended to read:

"35-1-1. MAGISTRATE COURT--ESTABLISHMENT.--There is established the "magistrate court" as a court of limited original jurisdiction within the judicial department of the state government. Personnel of the magistrate court are

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subject to all laws and regulations applicable to other state offices and agencies and to other state officers and employees except where otherwise provided by law. The magistrate court is ~~[not]~~ a court of record."

SECTION 4. Section 35-3-9 NMSA 1978 (being Laws 1968, Chapter 62, Section 54, as amended) is amended to read:

"35-3-9. JURISDICTION--CONTEMPT.--A magistrate has jurisdiction to punish for contempt only for disorderly behavior or breach of the peace tending to interrupt or disturb a judicial proceeding in progress before the magistrate or for disobedience of any lawful order or process of ~~[his]~~ the magistrate's court. No person shall be punished for contempt of the magistrate court until given an opportunity to be heard in ~~[his]~~ the person's defense. Any person convicted under this section may appeal to the ~~[district]~~ court of appeals in the same manner as in other criminal actions in the magistrate court."

SECTION 5. Section 35-4-2 NMSA 1978 (being Laws 1968, Chapter 62, Section 66) is amended to read:

"35-4-2. CIVIL ACTIONS--EXEMPTIONS.--

A. Exemptions of personal property provided in Sections ~~[24-5-1 through 24-5-13 New Mexico Statutes Annotated, 1953 Compilation]~~ 42-10-1 through 42-10-7 NMSA 1978 apply to all executions in civil actions in the magistrate court and to attachment, garnishment, replevin and forcible entry or

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detainer. The person entitled to the exemption or ~~[his]~~ the person's agent or attorney shall claim the exemption by filing as a part of the action pending in the magistrate court a list of the particular property claimed to be exempt and a statement of the grounds for the exemption. The list may be filed at any time before sale of the property or before money garnished is paid to the plaintiff.

B. Upon the filing of a list of claimed exemptions, the magistrate shall notify the plaintiff in the action that claim of exemption has been made for the property specified in the list and notify both parties of a time set for hearing on the claim of exemption. At the time set for hearing, the magistrate shall receive evidence, determine the issues and enter judgment on the claim of exemption.

C. If judgment on the claim of exemption is rendered after expiration of the time for appeal on the main issue in the action, either party aggrieved by the judgment on the claim of exemption may appeal from that judgment to the ~~[district]~~ court of appeals in the same manner as other appeals from final judgments of the magistrate court are taken. If judgment on the claim of exemption is rendered before judgment on the main issue in the cause, the judgment on the claim of exemption shall be deemed interlocutory and included within any appeal taken on the main issue in the action."

SECTION 6. Section 35-13-1 NMSA 1978 (being Laws 1968,

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Chapter 62, Section 148, as amended) is amended to read:

"35-13-1. APPEALS--RIGHT OF APPEAL.--Any party aggrieved by any judgment rendered or final order issued by the magistrate court in any civil action or special statutory proceeding, or the defendant aggrieved by any judgment rendered or final order issued by the magistrate court in any criminal action, may appeal to the [district] court of appeals within fifteen days after judgment is rendered or the final order is issued in the magistrate court."

~~H AFC →SECTION 7. APPROPRIATION.--Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the administrative office of the courts for expenditure in fiscal year 2025 and subsequent fiscal years to support on-record proceedings in the magistrate courts. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. ←H AFC~~

SECTION H AFC →8. ←H AFC H AFC →7. ←H AFC REPEAL.--Sections 35-13-2, 35-13-3, 39-2-5 and 39-2-6 NMSA 1978 (being Laws 1975, Chapter 242, Section 10, Laws 1968, Chapter 62, Section 151 and Laws 1865, Chapter 45, Sections 3 and 4, as amended) are repealed.

SECTION H AFC →9. ←H AFC H AFC →8. ←H AFC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.