

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1063
(Legislative Council)
(Judiciary Committee)
(Representatives Nottestad, Delmore, Christenson)
(Senators C. Nelson, W. Stenehjem)

AN ACT to create and enact two new sections to chapter 28-04 and a new section to chapter 29-01 of the North Dakota Century Code, relating to civil and criminal proceedings; to amend and reenact sections 28-04-02, 28-04-03, 28-04-04, 28-04-05, 29-03-07, 29-03-08, and 54-18-12 of the North Dakota Century Code, relating to the location of civil and criminal proceedings; and to repeal section 28-04-06 of the North Dakota Century Code, relating to the proper location of civil trials.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 28-04 of the North Dakota Century Code is created and enacted as follows:

Change of place of pretrial proceedings - Expenses. Notwithstanding any other provision of law, in any pretrial hearing or proceeding, except a hearing for a motion to suppress evidence, the court may change the place of the hearing or proceeding from the location in which the matter was originally to be heard.

SECTION 2. A new section to chapter 28-04 of the North Dakota Century Code is created and enacted as follows:

Change of place of trial - Jury - Expenses. Notwithstanding any other provision of law, in any civil trial the court may change the place of the trial from the location in which the matter was originally to be heard. If any party files an objection to the change of trial no later than ten days after the date of notice of assignment or reassignment of a judge for trial of the case, the trial must be held where originally venued. In the case of a jury trial, the jury panel must be composed of residents of the original county of venue or residents of the judicial district as provided by section 1 of House Bill No. 1064, as approved by the fifty-fifth legislative assembly.

SECTION 3. AMENDMENT. Section 28-04-02 of the North Dakota Century Code is amended and reenacted as follows:

28-04-02. Personal actions having venue where subject matter is located. An action for any of the following causes must be tried in the county in which the subject of the action, or some part of the subject, is situated, subject to the power of the court to change the place of trial in the cases provided by ~~statute~~ sections 1 and 2 of this Act:

1. For the recovery of personal property distrained for any cause; and
2. For recovery on an insurance policy for loss or damage to the property insured, and such property at the time of its loss or damage is deemed the subject matter of the action.

SECTION 4. AMENDMENT. Section 28-04-03 of the North Dakota Century Code is amended and reenacted as follows:

28-04-03. Actions having venue where the cause arose. An action for any one of the following causes must be tried in the county where the cause or some part thereof arose, subject to the power of the court to change the place of trial as provided in sections 1 and 2 of this Act:

1. For the recovery of a penalty or forfeiture imposed by statute, except that when it is imposed for an offense committed on a lake or river or other stream of water situated in two or more counties, the action may be brought in any county bordering on such lake, river, or stream, and opposite the place where the offense was committed; and
2. Against a public officer, or person specially appointed to execute ~~his~~ the officer's duties, for an act done by ~~him~~ that individual by virtue of ~~his~~ his office, or against a person who by ~~his~~ that person's command or ~~his~~ aid shall do anything touching the duties of such officer.

SECTION 5. AMENDMENT. Section 28-04-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

28-04-04. Venue of actions against domestic corporations and limited liability companies. An action against a domestic corporation or limited liability company must be ~~tried~~ brought in the county designated in plaintiff's complaint if such corporation or limited liability company transacts business in that county.

SECTION 6. AMENDMENT. Section 28-04-05 of the North Dakota Century Code is amended and reenacted as follows:

28-04-05. Actions having venue where defendant resides. In all other cases, except as provided in section 28-04-03.1, and subject to the power of the court to change the place of trial as provided by ~~statute~~ sections 1 and 2 of this Act, the action must be ~~tried~~ brought in the county in which the defendant or one of the defendants resides at the time of the commencement of the action. If ~~such~~ that county is attached to another county for judicial purposes, the action must be ~~tried~~ brought in the latter county. If none of the defendants reside in the state, the action must be ~~tried~~ brought in the county which the plaintiff shall designate in the summons.

SECTION 7. A new section to chapter 29-01 of the North Dakota Century Code is created and enacted as follows:

Change of place of criminal proceedings - Jury. Notwithstanding any other provision of law, in any initial appearance, arraignment, hearing, proceeding, or trial the court may change the place of the initial appearance, arraignment, hearing, proceeding, or trial from the location in which the matter was originally to be heard. If any party files an objection to the change of trial no later than ten days after the date of notice of assignment or reassignment of a judge for trial of the case, the trial must be held where originally venued. In the case of a jury trial, the jury panel must be composed of residents of the original county of venue or residents of the judicial district as provided by section 1 of House Bill No. 1064, as approved by the fifty-fifth legislative assembly.

SECTION 8. AMENDMENT. Section 29-03-07 of the North Dakota Century Code is amended and reenacted as follows:

29-03-07. Venue of offense in or against aircraft. ~~Any~~ Subject to section 7 of this Act, any person who commits an offense in or against any aircraft while it is in flight over this state may be tried in any county in this state.

SECTION 9. AMENDMENT. Section 29-03-08 of the North Dakota Century Code is amended and reenacted as follows:

29-03-08. Venue of offenses committed on railroad train or other vehicle. ~~Where~~ Subject to section 7 of this Act, where an offense is committed on a railroad train or other vehicle while in the course of a trip, the trial may be in any county through which ~~such~~ the train or other public vehicle passed during ~~such~~ the trip.

SECTION 10. AMENDMENT. Section 54-18-12 of the North Dakota Century Code is amended and reenacted as follows:

54-18-12. Civil actions on association transactions - Names of parties - Service - Venue - Statement filing provisions inapplicable. Civil actions may be brought against the state of North Dakota on account of claims for relief claimed to have arisen out of transactions connected with the

operation of the association upon ~~condition that the provisions of~~ compliance with this section ~~are~~
~~complied with~~. In such actions the state must be designated as the state of North Dakota, doing
business as North Dakota mill and elevator association, and the service of process therein must be
made upon the manager of the association. Such actions must be brought in the county where the
association has its principal place of business, except as provided in sections 28-04-01 through
28-04-04, ~~28-04-06~~, and 28-04-07. Section 54-14-04 does not apply to claims against the state
affected by this section.

SECTION 11. REPEAL. Section 28-04-06 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1063.

House Vote: Yeas 88 Nays 5 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State