

Fifty-fifth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1063**

Introduced by

Legislative Council

(Judiciary Committee)

(Representatives Nottestad, Delmore, Christenson)  
(Senators C. Nelson, W. Stenehjem)

1 A BILL for an Act to create and enact two new sections to chapter 28-04 and a new section to  
2 chapter 29-01 of the North Dakota Century Code, relating to civil and criminal proceedings; to  
3 amend and reenact sections 28-04-02, 28-04-03, 28-04-04, 28-04-05, 29-03-07, 29-03-08, and  
4 54-18-12 of the North Dakota Century Code, relating to the location of civil and criminal  
5 proceedings; and to repeal section 28-04-06 of the North Dakota Century Code, relating to the  
6 proper location of civil trials.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

10 **Change of place of pretrial proceedings - Expenses.** Notwithstanding any other  
11 provision of law, in any pretrial hearing or proceeding the court may change the place of the  
12 hearing or proceeding from the location in which the matter was originally to be heard.

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

15 **Change of place of trial - Jury - Expenses.** Notwithstanding any other provision of  
16 law, in any civil trial the court may change the place of the trial from the location in which the  
17 matter was originally to be heard. If any party objects to the change of trial before the  
18 commencement of the trial, the trial must be held where originally venued. In the case of a jury  
19 trial, the jury panel must be composed of residents of the original county of venue or residents  
20 of the judicial district as provided by section 1 of House Bill No. 1064, as approved by the  
21 fifty-fifth legislative assembly.

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

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

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

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

11           **28-04-03. Actions having venue where the cause arose.** An action for any one of  
12 the following causes must be tried in the county where the cause or some part thereof arose,  
13 subject to the power of the court to change the place of trial as provided in sections 1 and 2 of  
14 this Act:

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

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

26           **28-04-04. Venue of actions against domestic corporations and limited liability**  
27 **companies.** An action against a domestic corporation or limited liability company must be ~~tried~~  
28 brought in the county designated in plaintiff's complaint if such corporation or limited liability  
29 company transacts business in that county.

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

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

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

11           **Change of place of criminal proceedings - Jury.** Notwithstanding any other  
12 provision of law, in any initial appearance, arraignment, hearing, proceeding, or trial the court  
13 may change the place of the initial appearance, arraignment, hearing, proceeding, or trial from  
14 the location in which the matter was originally to be heard. If any party objects to the change of  
15 trial before the commencement of the trial, the trial must be held where originally venued. In  
16 the case of a jury trial, the jury panel must be composed of residents of the original county of  
17 venue or residents of the judicial district as provided by section 1 of House Bill No. 1064, as  
18 approved by the fifty-fifth legislative assembly.

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

21           **29-03-07. Venue of offense in or against aircraft.** ~~Any~~ Subject to section 7 of this  
22 Act, any person who commits an offense in or against any aircraft while it is in flight over this  
23 state may be tried in any county in this state.

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

26           **29-03-08. Venue of offenses committed on railroad train or other vehicle.** ~~Where~~  
27 Subject to section 7 of this Act, where an offense is committed on a railroad train or other  
28 vehicle while in the course of a trip, the trial may be in any county through which ~~such~~ the train  
29 or other public vehicle passed during ~~such~~ the trip.

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

1           **54-18-12. Civil actions on association transactions - Names of parties - Service -**  
2 **Venue - Statement filing provisions inapplicable.** Civil actions may be brought against the  
3 state of North Dakota on account of claims for relief claimed to have arisen out of transactions  
4 connected with the operation of the association upon ~~condition that the provisions of~~  
5 compliance with this section ~~are complied with~~. In such actions the state must be designated  
6 as the state of North Dakota, doing business as North Dakota mill and elevator association, and  
7 the service of process therein must be made upon the manager of the association. Such  
8 actions must be brought in the county where the association has its principal place of business,  
9 except as provided in sections 28-04-01 through 28-04-04, ~~28-04-06~~, and 28-04-07. Section  
10 54-14-04 does not apply to claims against the state affected by this section.  
11           **SECTION 11. REPEAL.** Section 28-04-06 of the North Dakota Century Code is  
12 repealed.