

SENATE BILL NO. 97

INTRODUCED BY J. FULLER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING VENUE LAWS FOR CASES IN WHICH PARTIES CHALLENGE RECENTLY ENACTED LAW; PROVIDING THAT VENUE IS PROPER IN A COUNTY WHOLLY OR PARTIALLY WITHIN THE LEGISLATIVE DISTRICT OF THE PRIMARY SPONSOR OF THE CHALLENGED LAW; REQUIRING CHANGE OF VENUE TO A COUNTY WHOLLY OR PARTIALLY WITHIN THE LEGISLATIVE DISTRICT OF THE PRIMARY SPONSOR OF THE CHALLENGED LAW WHEN A PARTY PLEADS THAT A RECENTLY ENACTED LAW IS UNCONSTITUTIONAL; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 25-2-118, 25-2-125, 25-2-126, AND 25-2-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Challenge to recently enacted law. (1) The proper place of trial for an action that challenges a statute or session law enacted or amended within the legislative biennium is in a county that is wholly or partially within the legislative district of the primary sponsor of the bill that enacted or amended the statute or session law.

(2) As used in this section, the following definitions apply:

(a) "Challenge" means:

(i) to plead that a statute or session law is unconstitutional under a provision of the state or federal constitution; or

(ii) to seek an injunction against the execution of a statute.

(b) "Legislative biennium" means a 2-year period beginning on the first Monday of January of an odd-numbered year and ending the day before the first Monday of January of the next odd-numbered year.

Section 2. Section 25-2-118, MCA, is amended to read:

"25-2-118. Residence of defendant. (1) Except as provided in [section 1] and subsection (3) of this section, the proper place of trial for all civil actions is the county in which the defendants or any of them reside

1 at the commencement of the action.

2 (2) If none of the defendants reside in the state, the proper place of trial for a contract action is as
3 provided in 25-2-121(1)(b) or (2) and the proper place of trial for a tort action is as provided in 25-2-122(2) or
4 (3).

5 (3) The proper place of trial for an action brought pursuant to Title 40, chapter 4, is the county in
6 which the petitioner or the respondent has resided during the 90 days preceding the filing of the action."

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8 **Section 3.** Section 25-2-125, MCA, is amended to read:

9 **"25-2-125. Against public officers or their agents.** The Except as provided in [section 1], the proper
10 place of trial for an action against a public officer or person specially appointed to execute the officer's duties for
11 an act done by the officer or person in virtue of the office or against a person who, by the officer's or person's
12 command or in the officer's or person's aid, does anything relating to the duties of the officer is the county
13 where the cause or some part of the cause of action arose."

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15 **Section 4.** Section 25-2-126, MCA, is amended to read:

16 **"25-2-126. Against state and political subdivisions.** (1) Except as provided in [section 1] and
17 subsection (2) of this section, the proper place of trial for an action against the state is in the county in which the
18 claim arose or in Lewis and Clark County. In an action against the state brought by a resident of the state, the
19 county of the plaintiff's residence is also a proper place of trial.

20 (2) For an action that challenges the issuance, approval, renewal, or denial of a permit, license,
21 authorization, or certificate by a state agency, the action must be brought in the county in which the permitted,
22 licensed, authorized, or certificated activity would occur. If an activity would occur in more than one county, any
23 county in which the activity would occur is a proper place for an action.

24 (3) The proper place of trial for an action against a political subdivision is in the county in which the
25 claim arose or in any county where the political subdivision is located."

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27 **Section 5.** Section 25-2-201, MCA, is amended to read:

28 **"25-2-201. When change of venue required.** The court or judge ~~must~~ shall, on motion, change the

1 place of trial in the following cases:

2 (1) when the county designated in the complaint is not the proper county;

3 (2) when there is reason to believe that an impartial trial cannot be had ~~therein~~ in the current place
4 of trial;

5 (3) when the convenience of witnesses and the ends of justice would be promoted by the change;

6 (4) when a party enters a pleading that challenges, as defined in [section 1], a statute or session
7 law if the statute or session law was enacted or amended within the legislative biennium, as defined in [section
8 1]; and

9 (5) when a primary bill sponsor intervenes pursuant to 5-2-107 in a declaratory judgment action."

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11 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title 25, chapter 2, part 1, and the provisions of Title 25, chapter 2, part 1, apply to [section 1].

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14 NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured,
15 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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