

SENATE BILL NO. 91

INTRODUCED BY MAZUREK

BY REQUEST OF THE MONTANA SUPREME COURT AND THE MONTANA
SUPREME COURT COMMISSION ON THE RULES OF EVIDENCE

IN THE SENATE

January 11, 1985	Introduced and referred to Committee on Judiciary.
January 22, 1985	Committee recommend bill do pass. Report adopted.
January 23, 1985	Bill printed and placed on members' desks.
January 24, 1985	Second reading, do pass.
January 25, 1985	Considered correctly engrossed.
January 26, 1985	Third reading, passed. Ayes, 46; Noes, 0.
	Transmitted to House.

IN THE HOUSE

January 28, 1985	Introduced and referred to Committee on Judiciary.
March 9, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 13, 1985	Motion pass consideration.
March 14, 1985	Second reading, concurred in.
March 16, 1985	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

March 16, 1985	Received from House.
March 21, 1985	Second reading, pass consideration until 64th Legislative Day.
March 25, 1985	Passed consideration.
March 27, 1985	Second reading, amendments concurred in.
March 29, 1985	Third reading, amendments concurred in. Ayes, 49; Noes, 0. Sent to enrolling. Reported correctly enrolled.

1 Senate BILL NO. 91
 2 INTRODUCED BY Nezuch
 3 BY REQUEST OF THE MONTANA SUPREME COURT AND THE MONTANA
 4 SUPREME COURT COMMISSION ON THE RULES OF EVIDENCE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE PROVISIONS RELATING TO VENUE BY DEFINING WHAT
 8 COUNTY IS A PROPER PLACE OF TRIAL FOR VARIOUS PARTIES AND
 9 CIVIL ACTIONS; AMENDING SECTIONS 2-9-312, 25-2-101 THROUGH
 10 25-2-106, AND 25-2-108, MCA; AND REPEALING SECTION 25-2-107,
 11 MCA."
 12

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

14 NEW SECTION. Section 1. Scope of part. The proper
 15 place of trial (venue) of a civil action is in the county or
 16 counties designated in this part.

17 NEW SECTION. Section 2. Designation of proper place
 18 of trial not jurisdictional. The designation of a county in
 19 this part as a proper place of trial is not jurisdictional
 20 and does not prohibit the trial of any cause in any court of
 21 this state having jurisdiction.

22 NEW SECTION. Section 3. Power of court to change
 23 place of trial. The designation in this part of a proper
 24 place of trial does not affect the power of a court to
 25 change the place of a trial for the reasons stated in

1 25-2-201(2) or (3), or pursuant to an agreement of the
 2 parties as provided in 25-2-202.

3 NEW SECTION. Section 4. Right of defendant to move
 4 for change of place of trial. If an action is brought in a
 5 county not designated as the proper place of trial, a
 6 defendant may move for a change of place of trial to a
 7 designated county.

8 NEW SECTION. Section 5. Multiple proper counties. If
 9 this part designates more than one county as a proper place
 10 of trial for any action, an action brought in any such
 11 county is brought in a proper county and no motion may be
 12 granted to change the place of trial upon the ground that
 13 the action is not brought in a proper county under
 14 25-2-201(1). If an action is brought in a county not
 15 designated as a proper place of trial, a defendant may move
 16 for a change of place of trial to any of the designated
 17 counties.

18 NEW SECTION. Section 6. Multiple claims. In an action
 19 involving two or more claims for which this part designates
 20 more than one as a proper place of trial, a party entitled
 21 to a change of place of trial on any claim is entitled to a
 22 change of place of trial on the entire action, subject to
 23 the power of the court to separate claims or issues for
 24 trial under Rule 42(b) of the Montana Rules of Civil
 25 Procedure.



1 NEW SECTION. Section 7. Multiple defendants. If there
 2 are two or more defendants in an action, a county that is a
 3 proper place of trial for any defendant is proper for all
 4 defendants, subject to the power of the court to order
 5 separate trials under Rule 42(b) of the Montana Rules of
 6 Civil Procedure. If an action with two or more defendants is
 7 brought in a county that is not a proper place of trial for
 8 any of the defendants, any defendant may make a motion for
 9 change of place of trial to any county which is a proper
 10 place of trial.

11 Section 8. Section 25-2-108, MCA, is amended to read:
 12 "25-2-108. ~~Other--actions~~ Residence of defendant. In
 13 ~~all other--cases,--the--action--shall--be--tried--in~~ Unless
 14 otherwise specified in this part:

15 (1) the proper place of trial for all civil actions is
 16 the county in which the defendants or any of them may reside
 17 at the commencement of the action or where the plaintiff
 18 ~~resides and the defendants or any of them may be found; or~~

19 (2) if none of the defendants reside in the state, or
 20 ~~if residing in the state, the county in which they so reside~~
 21 ~~be unknown to the plaintiff, the same may be tried in any~~
 22 ~~county which the plaintiff may designate in his complaint;~~
 23 ~~subject, however, to the power of the court to change the~~
 24 ~~place of trial as provided in this code~~ the proper place of
 25 trial is any county the plaintiff designates in the

1 complaint."

2 Section 9. Section 25-2-101, MCA, is amended to read:

3 "25-2-101. ~~Contract-actions~~ Contracts. Actions (1) The
 4 proper place of trial for actions upon contracts may be
 5 tried in is either:

6 (a) the county in which the defendants, or any of
 7 them, reside at the commencement of the action; or

8 (b) the county in which the contract was to be
 9 performed, subject, however, to the power of the court to
 10 change the place of trial as provided in this code. The
 11 county in which the contract was to be performed is:

12 (i) the county named in the contract as the place of
 13 performance; or

14 (ii) if no county is named in the contract as the place
 15 of performance, the county in which, by necessary
 16 implication from the terms of the contract, considering all
 17 of the obligations of all parties at the time of its
 18 execution, the principal activity was to take place.

19 (2) Subsections (2)(a) through (2)(d) do not
 20 constitute a complete list of classes of contracts; if,
 21 however, a contract belongs to one of the following classes,
 22 the proper county for such a contract for the purposes of
 23 subsection (1)(b)(ii) is:

24 (a) contracts for the sale of property or goods; the
 25 county where possession of the property or goods is to be

1 delivered;

2 (b) contracts of employment or for the performance of
3 services: the county where the labor or services are to be
4 performed;

5 (c) contracts of indemnity or insurance: the county
6 where the loss or injury occurred or where a judgment is
7 obtained against the assured or indemnitee or where payment
8 is to be made by the insurer;

9 (d) contracts for construction or repair: the county
10 where the object to be constructed or repaired is situated
11 or is to be built."

12 Section 10. Section 25-2-102, MCA, is amended to read:

13 "25-2-102. Tort actions Torts. Actions--for-torts--may
14 be--tried-in-the The proper place of trial for a tort action
15 is:

16 (1) The county in which the defendants, or any of
17 them, reside at the commencement of the action; or

18 (2) The county where the tort was committed,--subject,7
19 however,--to-the-power-of-the-court-to-change--the--place--of
20 trial--as-provided-in-this-code. If the tort is interrelated
21 with and dependent upon a claim for breach of contract, the
22 tort was committed, for the purpose of determining the
23 proper place of trial, in the county where the contract was
24 to be performed."

25 Section 11. Section 25-2-103, MCA, is amended to read:

1 "25-2-103. ~~Actions--involving--real~~ Real property. (1)
2 Actions The proper place of trial for the following causes
3 must--be-tried-in actions is the county in which the subject
4 of the action or some part thereof is situated,--~~subject--to~~
5 ~~the--power--of--the--court--to--change--the--place--of--trial--as~~
6 ~~provided-in-this-code:~~

7 (a) for the recovery of real property or of an estate
8 or an interest therein or for the determination, in any
9 form, of such right or interest;

10 (b) for injuries to real property;

11 (c) for the partition of real property;

12 (d) for the foreclosure of all liens and mortgages on
13 real property.

14 (2) Where the real property is situated partly in one
15 county and partly in another, the plaintiff may select
16 either of the counties and the county so selected is the
17 proper county for the trial of such action.

18 (3) ~~All~~ The proper place of trial for all actions for
19 the recovery of the possession of, quieting the title to, or
20 the enforcement of liens upon real property ~~must--be~~
21 ~~commenced-in~~ is the county in which the real property, or
22 any part thereof, affected by such action or actions is
23 situated."

24 Section 12. Section 25-2-104, MCA, is amended to read:

25 "25-2-104. ~~Actions-to-recover~~ Recovery of statutory

1 penalty or forfeiture. ~~Actions~~ The proper place of trial for
 2 the recovery of a penalty or forfeiture imposed by statute
 3 ~~must-be-tried-in~~ is the county where the cause or some part
 4 thereof arose, ~~subject-to-the-power-of-the-court-to-change~~
 5 ~~the-place-of-trial;~~ except that when it is imposed for an
 6 offense committed on a lake, river, or other stream of water
 7 situated in two or more counties, the action may be brought
 8 in any county bordering on such lake, river, or stream and
 9 opposite to the place where the offense was committed."

10 Section 13. Section 25-2-105, MCA, is amended to read:

11 "25-2-105. ~~Actions--against~~ Against public officers or
 12 their agents. ~~Actions~~ The proper place of trial for an
 13 action against a public officer or person specially
 14 appointed to execute his duties for an act done by him in
 15 virtue of his office or against a person who, by his command
 16 or in his aid, does anything touching the duties of such
 17 officer ~~must-be-tried-in~~ is the county where the cause or
 18 some part thereof arose, ~~subject-to-the-power-of-the-court~~
 19 ~~to-change-the-place-of-trial."~~

20 Section 14. Section 25-2-106, MCA, is amended to read:

21 "25-2-106. ~~Actions-against~~ Against counties. ~~An~~ The
 22 proper place of trial for an action against a county ~~may-be~~
 23 ~~commenced-and-tried-in--such~~ is that county unless such
 24 action is brought by a county, in which case ~~it-may-be~~
 25 ~~commenced-and-tried-in~~ any county not a party thereto is

1 also a proper place of trial."

2 Section 15. Section 2-9-312, MCA, is amended to read:

3 "2-9-312. ~~Venue-of-actions~~ Against state and political
 4 subdivisions. (1) ~~Actions~~ The proper place of trial for an
 5 action against the state ~~shall-be-brought~~ is in the county
 6 in which the ~~cause-of-action~~ claim arose or in Lewis and
 7 Clark County. In addition, an action brought by a resident
 8 of the state, ~~may-bring-an--action--in~~ the county of his
 9 residence is also a proper place of trial.

10 (2) ~~Actions~~ The proper place of trial for an action
 11 against a political subdivision ~~shall-be-brought~~ is in the
 12 county in which the ~~cause-of-action~~ claim arose or in any
 13 county where the political subdivision is located."

14 NEW SECTION. Section 16. Specific statutes control.
 15 The provisions of this part do not repeal, by implication or
 16 otherwise, specific statutes not within this part,
 17 designating a proper place of trial, whether or not such a
 18 designation is called venue or proper place of trial.

19 NEW SECTION. Section 17. Repealer. Section 25-2-107,
 20 MCA, is repealed.

21 NEW SECTION. Section 18. Codification instruction.

22 (1) Sections 1 through 7 and 16 are intended to be codified
 23 as an integral part of Title 25, chapter 2, part 1, and the
 24 provisions of Title 25, chapter 2, part 1, apply to sections
 25 1 through 7 and 16.

LC 0044/01

1 (2) Section 2-9-312 is intended to be recodified as an
2 integral part of Title 25, chapter 2, part 1, and the
3 provisions of Title 25, chapter 2, part 1, apply to 2-9-312
4 as recodified.

-End-

APPROVED BY COMMITTEE ON JUDICIARY

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 2 INTRODUCED BY Maquok
 3 BY REQUEST OF THE MONTANA SUPREME COURT AND THE MONTANA
 4 SUPREME COURT COMMISSION ON THE RULES OF EVIDENCE
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 19 this part as a proper place of trial is not jurisdictional
 20 and does not prohibit the trial of any cause in any court of
 21 this state having jurisdiction.
 22 NEW SECTION. Section 3. Power of court to change
 23 place of trial. The designation in this part of a proper
 24 place of trial does not affect the power of a court to
 25 change the place of a trial for the reasons stated in

1 25-2-201(2) or (3), or pursuant to an agreement of the
 2 parties as provided in 25-2-202.
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 6 defendant may move for a change of place of trial to a
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 10 of trial for any action, an action brought in any such
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 17 at the commencement of the action or where the plaintiff
 18 resides and the defendants or any of them may be found; or

19 (2) if none of the defendants reside in the state, or
 20 if residing in the state, the county in which they so reside
 21 be unknown to the plaintiff, the same may be tried in any
 22 county which the plaintiff may designate in his complaint,
 23 subject, however, to the power of the court to change the
 24 place of trial as provided in this code the proper place of
 25 trial is any county the plaintiff designates in the

1 complaint."

2 Section 9. Section 25-2-101, MCA, is amended to read:

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 7 them, reside at the commencement of the action; or

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 9 performed, subject, however, to the power of the court to
 10 change the place of trial as provided in this code. The
 11 county in which the contract was to be performed is:

12 (i) the county named in the contract as the place of
 13 performance; or

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 15 of performance, the county in which, by necessary
 16 implication from the terms of the contract, considering all
 17 of the obligations of all parties at the time of its
 18 execution, the principal activity was to take place.

19 (2) Subsections (2)(a) through (2)(d) do not
 20 constitute a complete list of classes of contracts; if,
 21 however, a contract belongs to one of the following classes,
 22 the proper county for such a contract for the purposes of
 23 subsection (1)(b)(ii) is:

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 25 county where possession of the property or goods is to be

1 delivered;
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 3 services: the county where the labor or services are to be
 4 performed;

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 6 where the loss or injury occurred or where a judgment is
 7 obtained against the assured or indemnitee or where payment
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 10 where the object to be constructed or repaired is situated
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12 Section 10. Section 25-2-102, MCA, is amended to read:
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 8 or an interest therein or for the determination, in any
 9 form, of such right or interest;

10 (b) for injuries to real property;

11 (c) for the partition of real property;

12 (d) for the foreclosure of all liens and mortgages on
 13 real property.

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 15 county and partly in another, the plaintiff may select
 16 either of the counties and the county so selected is the
 17 proper county for the trial of such action.

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24 Section 12. Section 25-2-104, MCA, is amended to read:

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 15 virtue of his office or against a person who, by his command
 16 or in his aid, does anything touching the duties of such
 17 officer ~~must-be-tried-in~~ is the county where the cause or
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 24 provisions of Title 25, chapter 2, part 1, apply to sections
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LC 0044/01

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-End-

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 24 trial under Rule 42(b) of the Montana Rules of Civil
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 23 ~~subject, however, to the power of the court to change the~~
 24 ~~place of trial as provided in this code~~ the proper place of
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 15 of performance, the county in which, by necessary
 16 implication from the terms of the contract, considering all
 17 of the obligations of all parties at the time of its
 18 execution, the principal activity was to take place.

19 (2) Subsections (2)(a) through (2)(d) do not
 20 constitute a complete list of classes of contracts; if,
 21 however, a contract belongs to one of the following classes,
 22 the proper county for such a contract for the purposes of
 23 subsection (1)(b)(i) is:

24 (a) contracts for the sale of property or goods: the
 25 county where possession of the property or goods is to be

1 delivered;

2 (b) contracts of employment or for the performance of
3 services: the county where the labor or services are to be
4 performed;

5 (c) contracts of indemnity or insurance: the county
6 where the loss or injury occurred or where a judgment is
7 obtained against the assured or indemnitee or where payment
8 is to be made by the insurer;

9 (d) contracts for construction or repair: the county
10 where the object to be constructed or repaired is situated
11 or is to be built."

12 Section 10. Section 25-2-102, MCA, is amended to read:

13 "25-2-102. Tort-actions Torts. Actions--for-torts--may
14 be--tried-in-the The proper place of trial for a tort action
15 is:

16 (1) The county in which the defendants, or any of
17 them, reside at the commencement of the action; or

18 (2) The county where the tort was committed,--subject,
19 however,--to-the-power-of-the-court-to-change--the--place--of
20 trial--as-provided-in-this-code. If the tort is interrelated
21 with and dependent upon a claim for breach of contract, the
22 tort was committed, for the purpose of determining the
23 proper place of trial, in the county where the contract was
24 to be performed."

25 Section 11. Section 25-2-103, MCA, is amended to read:

1 "25-2-103. ~~Actions--involving--real~~ Real property. (1)
2 Actions The proper place of trial for the following causes
3 must--be-tried-in actions is the county in which the subject
4 of the action or some part thereof is situated,--subject--to
5 the--power--of--the--court--to--change--the--place--of--trial--as
6 provided-in-this-code:

7 (a) for the recovery of real property or of an estate
8 or an interest therein or for the determination, in any
9 form, of such right or interest;

10 (b) for injuries to real property;

11 (c) for the partition of real property;

12 (d) for the foreclosure of all liens and mortgages on
13 real property.

14 (2) Where the real property is situated partly in one
15 county and partly in another, the plaintiff may select
16 either of the counties and the county so selected is the
17 proper county for the trial of such action.

18 (3) ~~All~~ The proper place of trial for all actions for
19 the recovery of the possession of, quieting the title to, or
20 the enforcement of liens upon real property must--be
21 commenced-in is the county in which the real property, or
22 any part thereof, affected by such action or actions is
23 situated."

24 Section 12. Section 25-2-104, MCA, is amended to read:

25 "25-2-104. ~~Actions-to-recover~~ Recovery of statutory

1 penalty or forfeiture. ~~Actions~~ The proper place of trial for
 2 the recovery of a penalty or forfeiture imposed by statute
 3 ~~must-be-tried-in~~ is the county where the cause or some part
 4 thereof arose, ~~subject-to-the-power-of-the-court-to-change~~
 5 ~~the-place-of-trial;~~ except that when it is imposed for an
 6 offense committed on a lake, river, or other stream of water
 7 situated in two or more counties, the action may be brought
 8 in any county bordering on such lake, river, or stream and
 9 opposite to the place where the offense was committed."

10 Section 13. Section 25-2-105, MCA, is amended to read:

11 "25-2-105. ~~Actions--against~~ Against public officers or
 12 their agents. ~~Actions~~ The proper place of trial for an
 13 action against a public officer or person specially
 14 appointed to execute his duties for an act done by him in
 15 virtue of his office or against a person who, by his command
 16 or in his aid, does anything touching the duties of such
 17 officer ~~must-be-tried-in~~ is the county where the cause or
 18 some part thereof arose, ~~subject-to-the-power-of-the-court~~
 19 ~~to-change-the-place-of-trial."~~

20 Section 14. Section 25-2-106, MCA, is amended to read:

21 "25-2-106. ~~Actions-against~~ Against counties. An The
 22 proper place of trial for an action against a county ~~may-be~~
 23 ~~commenced-and-tried-in--such~~ is that county unless such
 24 action is brought by a county, in which case ~~it-may-be~~
 25 ~~commenced-and-tried-in~~ any county not a party thereto is

1 also a proper place of trial."

2 Section 15. Section 2-9-312, MCA, is amended to read:

3 "2-9-312. ~~Venue-of-actions~~ Against state and political
 4 subdivisions. (1) ~~Actions~~ The proper place of trial for an
 5 action against the state ~~shall-be-brought~~ is in the county
 6 in which the ~~cause-of-action~~ claim arose or in Lewis and
 7 Clark County. In ~~addition,~~ an action brought by a resident
 8 of the state, ~~may-bring-an--action--in~~ the county of his
 9 residence is also a proper place of trial.

10 (2) ~~Actions~~ The proper place of trial for an action
 11 against a political subdivision ~~shall-be-brought~~ is in the
 12 county in which the ~~cause-of-action~~ claim arose or in any
 13 county where the political subdivision is located."

14 NEW SECTION. Section 16. Specific statutes control.
 15 The provisions of this part do not repeal, by implication or
 16 otherwise, specific statutes not within this part,
 17 designating a proper place of trial, whether or not such a
 18 designation is called venue or proper place of trial.

19 NEW SECTION. Section 17. Repealer. Section 25-2-107,
 20 MCA, is repealed.

21 NEW SECTION. Section 18. Codification instruction.
 22 (1) Sections 1 through 7 and 16 are intended to be codified
 23 as an integral part of Title 25, chapter 2, part 1, and the
 24 provisions of Title 25, chapter 2, part 1, apply to sections
 25 1 through 7 and 16.

LC 0044/01

1 (2) Section 2-9-312 is intended to be recodified as an
2 integral part of Title 25, chapter 2, part 1, and the
3 provisions of Title 25, chapter 2, part 1, apply to 2-9-312
4 as recodified.

-End-

STANDING COMMITTEE REPORT

March 8

19 85

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate

Bill No. 91

Third reading copy (Blue color)

GENERAL REVISION AND CLARIFICATION OF VENUE STATUTES

Respectfully report as follows: That Senate

Bill No. 91

be amended as follows:

1. Page 3, line 15.

Following: "(1)"

Insert: "except as provided in subsection (3),"

2. Page 4, line 1.

Following: "complaint"

Insert: "; (3) the proper place of trial of an action brought pursuant to Title 40, chapter 4 is the county in which the petitioner has resided during the 90 days preceding the commencement of the action"

AND AS AMENDED, BE CONCURRED IN

Handwritten initials and date: SL 3/9

Handwritten signature: Tom Hannah

REP. TOM HANNAH,

Chairman.

SENATE BILL NO. 91

INTRODUCED BY MAZUREK

BY REQUEST OF THE MONTANA SUPREME COURT AND THE MONTANA SUPREME COURT COMMISSION ON THE RULES OF EVIDENCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE PROVISIONS RELATING TO VENUE BY DEFINING WHAT COUNTY IS A PROPER PLACE OF TRIAL FOR VARIOUS PARTIES AND CIVIL ACTIONS; AMENDING SECTIONS 2-9-312, 25-2-101 THROUGH 25-2-106, AND 25-2-108, MCA; AND REPEALING SECTION 25-2-107, MCA."

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

NEW SECTION. Section 1. Scope of part. The proper place of trial (venue) of a civil action is in the county or counties designated in this part.

NEW SECTION. Section 2. Designation of proper place of trial not jurisdictional. The designation of a county in this part as a proper place of trial is not jurisdictional and does not prohibit the trial of any cause in any court of this state having jurisdiction.

NEW SECTION. Section 3. Power of court to change place of trial. The designation in this part of a proper place of trial does not affect the power of a court to change the place of a trial for the reasons stated in

25-2-201(2) or (3), or pursuant to an agreement of the parties as provided in 25-2-202.

NEW SECTION. Section 4. Right of defendant to move for change of place of trial. If an action is brought in a county not designated as the proper place of trial, a defendant may move for a change of place of trial to a designated county.

NEW SECTION. Section 5. Multiple proper counties. If this part designates more than one county as a proper place of trial for any action, an action brought in any such county is brought in a proper county and no motion may be granted to change the place of trial upon the ground that the action is not brought in a proper county under 25-2-201(1). If an action is brought in a county not designated as a proper place of trial, a defendant may move for a change of place of trial to any of the designated counties.

NEW SECTION. Section 6. Multiple claims. In an action involving two or more claims for which this part designates more than one as a proper place of trial, a party entitled to a change of place of trial on any claim is entitled to a change of place of trial on the entire action, subject to the power of the court to separate claims or issues for trial under Rule 42(b) of the Montana Rules of Civil Procedure.



1 NEW SECTION. Section 7. Multiple defendants. If there
 2 are two or more defendants in an action, a county that is a
 3 proper place of trial for any defendant is proper for all
 4 defendants, subject to the power of the court to order
 5 separate trials under Rule 42(b) of the Montana Rules of
 6 Civil Procedure. If an action with two or more defendants is
 7 brought in a county that is not a proper place of trial for
 8 any of the defendants, any defendant may make a motion for
 9 change of place of trial to any county which is a proper
 10 place of trial.

11 Section 8. Section 25-2-108, MCA, is amended to read:
 12 "25-2-108. ~~Other--actions~~ Residence of defendant. In
 13 ~~all--other--cases,--the--action--shall--be--tried--in~~ Unless
 14 otherwise specified in this part:

15 (1) EXCEPT AS PROVIDED IN SUBSECTION (3), the proper
 16 place of trial for all civil actions is the county in which
 17 the defendants or any of them may reside at the commencement
 18 of the action or--where--the--plaintiff--resides--and--the
 19 defendants--or--any--of--them--may--be--found; or

20 (2) if none of the defendants reside in the state, or,
 21 if--residing--in--the--state,--the--county--in--which--they--so--reside
 22 be--unknown--to--the--plaintiff,--the--same--may--be--tried--in--any
 23 county--which--the--plaintiff--may--designate--in--his--complaint,
 24 subject,--however,--to--the--power--of--the--court--to--change--the
 25 place--of--trial--as--provided--in--this--code the proper place of

1 trial is any county the plaintiff designates in the
 2 complaint;

3 (3) THE PROPER PLACE OF TRIAL OF AN ACTION BROUGHT
 4 PURSUANT TO TITLE 40, CHAPTER 4, IS THE COUNTY IN WHICH THE
 5 PETITIONER HAS RESIDED DURING THE 90 DAYS PRECEDING THE
 6 COMMENCEMENT OF THE ACTION."

7 Section 9. Section 25-2-101, MCA, is amended to read:
 8 "25-2-101. ~~Contract-actions~~ Contracts. Actions (1) The
 9 proper place of trial for actions upon contracts may--be
 10 tried--in is either:

11 (a) the county in which the defendants, or any of
 12 them, reside at the commencement of the action; or

13 (b) the county in which the contract was to be
 14 performed,--subject,--however,--to--the--power--of--the--court--to
 15 change--the--place--of--trial--as--provided--in--this--code. The
 16 county in which the contract was to be performed is:

17 (i) the county named in the contract as the place of
 18 performance; or

19 (ii) if no county is named in the contract as the place
 20 of performance, the county in which, by necessary
 21 implication from the terms of the contract, considering all
 22 of the obligations of all parties at the time of its
 23 execution, the principal activity was to take place.

24 (2) Subsections (2)(a) through (2)(d) do not
 25 constitute a complete list of classes of contracts; if,

1 however, a contract belongs to one of the following classes,
 2 the proper county for such a contract for the purposes of
 3 subsection (1)(b)(ii) is:

4 (a) contracts for the sale of property or goods: the
 5 county where possession of the property or goods is to be
 6 delivered;

7 (b) contracts of employment or for the performance of
 8 services: the county where the labor or services are to be
 9 performed;

10 (c) contracts of indemnity or insurance: the county
 11 where the loss or injury occurred or where a judgment is
 12 obtained against the assured or indemnitee or where payment
 13 is to be made by the insurer;

14 (d) contracts for construction or repair: the county
 15 where the object to be constructed or repaired is situated
 16 or is to be built."

17 Section 10. Section 25-2-102, MCA, is amended to read:

18 "25-2-102. Tort-actions Torts. Actions--for-torts--may
 19 be--erted-in-the The proper place of trial for a tort action
 20 is:

21 (1) The county in which the defendants, or any of
 22 them, reside at the commencement of the action; or

23 (2) The county where the tort was committed;--subject;
 24 however--to-the-power-of-the-court-to-change--the--place--of
 25 trial--as-provided-in-this-code. If the tort is interrelated

1 with and dependent upon a claim for breach of contract, the
 2 tort was committed, for the purpose of determining the
 3 proper place of trial, in the county where the contract was
 4 to be performed."

5 Section 11. Section 25-2-103, MCA, is amended to read:

6 "25-2-103. Actions--involving--real Real property. (1)
 7 Actions The proper place of trial for the following causes
 8 must--be-tried-in actions is the county in which the subject
 9 of the action or some part thereof is situated;--subject--to
 10 the--power--of--the--court--to--change-the-place-of-trial--as
 11 provided-in-this-code:

12 (a) for the recovery of real property or of an estate
 13 or an interest therein or for the determination, in any
 14 form, of such right or interest;

15 (b) for injuries to real property;

16 (c) for the partition of real property;

17 (d) for the foreclosure of all liens and mortgages on
 18 real property.

19 (2) Where the real property is situated partly in one
 20 county and partly in another, the plaintiff may select
 21 either of the counties and the county so selected is the
 22 proper county for the trial of such action.

23 (3) ~~At~~ The proper place of trial for all actions for
 24 the recovery of the possession of, quieting the title to, or
 25 the enforcement of liens upon real property must--be

1 ~~commenced-in~~ is the county in which the real property, or
 2 any part thereof, affected by such action or actions is
 3 situated."

4 Section 12. Section 25-2-104, MCA, is amended to read:

5 "25-2-104. ~~Actions-to-recover~~ Recovery of statutory
 6 penalty or forfeiture. ~~Actions~~ The proper place of trial for
 7 the recovery of a penalty or forfeiture imposed by statute
 8 ~~must-be-tried-in~~ is the county where the cause or some part
 9 thereof arose, ~~subject-to-the-power-of-the-court-to-change~~
 10 ~~the-place-of-trial~~, except that when it is imposed for an
 11 offense committed on a lake, river, or other stream of water
 12 situated in two or more counties, the action may be brought
 13 in any county bordering on such lake, river, or stream and
 14 opposite to the place where the offense was committed."

15 Section 13. Section 25-2-105, MCA, is amended to read:

16 "25-2-105. ~~Actions--against~~ Against public officers or
 17 their agents. ~~Actions~~ The proper place of trial for an
 18 action against a public officer or person specially
 19 appointed to execute his duties for an act done by him in
 20 virtue of his office or against a person who, by his command
 21 or in his aid, does anything touching the duties of such
 22 officer ~~must-be-tried-in~~ is the county where the cause or
 23 some part thereof arose, ~~subject-to-the-power-of-the-court~~
 24 ~~to-change-the-place-of-trial~~."

25 Section 14. Section 25-2-106, MCA, is amended to read:

1 "25-2-106. ~~Actions-against~~ Against counties. ~~An~~ The
 2 proper place of trial for an action against a county ~~may-be~~
 3 ~~commenced-and-tried-in--such~~ is that county unless such
 4 action is brought by a county, in which case ~~it-may-be~~
 5 ~~commenced-and-tried-in~~ any county not a party thereto is
 6 also a proper place of trial."

7 Section 15. Section 2-9-312, MCA, is amended to read:

8 "2-9-312. ~~Venue-of-actions~~ Against state and political
 9 subdivisions. (1) ~~Actions~~ The proper place of trial for an
 10 action against the state ~~shall-be-brought~~ is in the county
 11 in which the ~~cause-of-action~~ claim arose or in Lewis and
 12 Clark County. In ~~addition~~, an action brought by a resident
 13 of the state, may-bring-an-action--in the county of his
 14 residence is also a proper place of trial.

15 (2) ~~Actions~~ The proper place of trial for an action
 16 against a political subdivision shall-be-brought is in the
 17 county in which the ~~cause-of-action~~ claim arose or in any
 18 county where the political subdivision is located."

19 NEW SECTION. Section 16. Specific statutes control.
 20 The provisions of this part do not repeal, by implication or
 21 otherwise, specific statutes not within this part,
 22 designating a proper place of trial, whether or not such a
 23 designation is called venue or proper place of trial.

24 NEW SECTION. Section 17. Repealer. Section 25-2-107,
 25 MCA, is repealed.

1 NEW SECTION. Section 18. Codification instruction.

2 (1) Sections 1 through 7 and 16 are intended to be codified
3 as an integral part of Title 25, chapter 2, part 1, and the
4 provisions of Title 25, chapter 2, part 1, apply to sections
5 1 through 7 and 16.

6 (2) Section 2-9-312 is intended to be recodified as an
7 integral part of Title 25, chapter 2, part 1, and the
8 provisions of Title 25, chapter 2, part 1, apply to 2-9-312
9 as recodified.

-End-