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HOUSE BILL 74

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Paul C. Bandy

AN ACT

RELATING TO COURTS; MAKING MAGISTRATE AND METROPOLITAN COURTS
COURTS OF RECORD FOR PURPOSES OF BAIL HEARINGS FOR PRETRIAL
DETENTION OF CERTAIN PERSONS ACCUSED OF A FELONY.

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

SECTION 1. Section 34-8A-6 NMSA 1978 (being Laws 1979,
Chapter 346, Section 6, as amended) is amended to read:

"34-8A-6. METROPOLITAN COURT--RULES--APPEAL.--

A. The supreme court shall adopt separate rules of
procedure for the metropolitan courts. The rules shall provide
simple procedures for the just, speedy and inexpensive
determination of any metropolitan court action.

B. The metropolitan court is a court of record for
civil actions. Any party aggrieved by a judgment rendered by
the metropolitan court in a civil action may appeal to the

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1 district court of the county in which the metropolitan court is
2 located within fifteen days after the judgment was rendered.
3 The manner and method for the appeal shall be set forth by
4 supreme court rule.

5 C. The metropolitan court is a court of record for
6 criminal actions involving driving while under the influence of
7 intoxicating ~~[liquors]~~ liquor or drugs ~~[or involving]~~, domestic
8 violence or felony charges for which the prosecuting authority
9 has requested a hearing to deny bail. A criminal action
10 involving domestic violence means an assault or battery under
11 any state law or municipal or county ordinance in which the
12 alleged victim is a household member as defined in the Family
13 Violence Protection Act. Any party aggrieved by a judgment
14 rendered by the metropolitan court in a criminal action
15 involving driving while under the influence of intoxicating
16 ~~[liquors]~~ liquor or drugs ~~[or involving]~~, domestic violence or
17 felony charges for which the prosecuting authority has
18 requested a hearing to deny bail may appeal to the district
19 court of the county in which the metropolitan court is located
20 within fifteen days after the judgment was rendered. The
21 manner and method of appeal shall be set forth by supreme court
22 rule.

23 D. The metropolitan court is not a court of record
24 for criminal actions other than driving while under the
25 influence of intoxicating ~~[liquors]~~ liquor or drugs ~~[or]~~,

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1 domestic violence actions or felony charges for which the
2 prosecuting authority has requested a hearing to deny bail.

3 Any party aggrieved by a judgment rendered by the metropolitan
4 court in a criminal action, other than driving while under the
5 influence of intoxicating [~~liquors~~] liquor or drugs [~~or~~],
6 domestic violence action or felony charges for which the
7 prosecuting authority has requested a hearing to deny bail, may
8 appeal to the district court of the county in which the
9 metropolitan court is located within fifteen days after the
10 judgment was rendered. The appeal shall be de novo.

11 E. All judgments rendered in civil actions in the
12 metropolitan court shall be subject to the same provisions of
13 law as those rendered in district court."

14 SECTION 2. Section 35-3-4 NMSA 1978 (being Laws 1968,
15 Chapter 62, Section 49, as amended by Laws 1985, Chapter 59,
16 Section 1 and also by Laws 1985, Chapter 147, Section 1) is
17 amended to read:

18 "35-3-4. JURISDICTION--CRIMINAL ACTIONS.--

19 A. Magistrates have jurisdiction in all cases of
20 misdemeanors and petty misdemeanors, including offenses and
21 complaints under ordinances of a county. Magistrates also have
22 jurisdiction in any other criminal action where jurisdiction is
23 specifically granted by law, and they may hold preliminary
24 examinations in any criminal action where authorized by law.

25 B. Magistrates have jurisdiction over all offenses

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1 and complaints under ordinances of a municipality and may issue
2 subpoenas and warrants and punish for contempt if that
3 municipality has adopted an effective ordinance to provide for
4 magistrate jurisdiction over municipal ordinances pursuant to
5 the provisions of Subsection B of Section 35-14-1 NMSA 1978.

6 C. In any criminal action in the magistrate court
7 [~~which~~] that is beyond the jurisdiction of the magistrate
8 court, the magistrate may commit to jail, discharge or
9 recognize the defendant to appear before the district court as
10 provided by law. A magistrate court is a court of record for
11 criminal actions involving a felony for which the prosecuting
12 authority has requested a hearing to deny bail. Whenever the
13 defendant is bound over to the district court, the magistrate
14 shall forthwith deliver to the clerk of the district court a
15 transcript of all proceedings in the magistrate court in the
16 action.

17 D. In any criminal action over which the magistrate
18 has subject matter jurisdiction, as provided in Subsection A of
19 this section, process may be served upon the defendant wherever
20 [~~he~~] the defendant resides or may be found within the state."

21 SECTION 3. Section 35-13-2 NMSA 1978 (being Laws 1975,
22 Chapter 242, Section 10, as amended) is amended to read:

23 "35-13-2. APPEALS--DISTRICT COURT PROCEEDINGS--DOCKET
24 FEES--JUDGMENT.--

25 A. Appeals from the magistrate courts shall be

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1 tried de novo in the district court except for appeals of a
2 decision to deny bail for a defendant charged with a felony.

3 B. The district court docket fee in any criminal
4 appeal is thirty-five dollars (\$35.00), ten dollars (\$10.00) of
5 which shall be deposited in the court automation fund.

6 C. If the judgment of the magistrate court in a
7 criminal action is affirmed or rendered against the appellant
8 on appeal or if the appellant fails to appear at the time fixed
9 for hearing in the district court, the district court shall
10 enter judgment imposing the same, a greater or a lesser penalty
11 as that imposed in the magistrate court in the action."