

## **CHAPTER 28-04 VENUE**

### **28-04-01. Venue of actions relating to real property.**

An action for any one of the following causes must be brought in the county in which the subject matter of the action, or some part thereof, is situated, subject to the power of the court to change the place of trial upon agreement of counsel or in other cases provided by statute:

1. For the recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest.
2. For injuries to real property.
3. For the partition of real property.
4. For the foreclosure of a mortgage upon real property.
5. For the taking of property by eminent domain.

Where the subject matter of the action is situated in more than one county, only one action need be brought in one of the counties and the judgment rendered in that county is effective as to all other counties upon its being docketed therein, and further or supplemental proceedings may be held in each county where the judgment is docketed as though the action had originally been commenced therein.

### **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 sections 28-04-09 and 28-04-10:

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.

### **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 28-04-09 and 28-04-10:

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 the officer's duties, for an act done by that individual by virtue of office, or against a person who by that person's command or aid shall do anything touching the duties of such officer.

#### **28-04-03.1. Venue in motor vehicle cases.**

An action against the owner or driver of any motor vehicle arising out of and by reason of the negligent driving, operation, management, or control of such motor vehicle may be brought either in the county where such action arose, in the county of the residence of the defendant, or in the county of the residence of the majority of the defendants. In any event, the venue of the action may not be changed unless by order of the court pursuant to section 28-04-07.

### **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 brought in the county designated in the plaintiff's complaint if such corporation or limited liability company transacts business in that county.

**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 sections 28-04-09 and 28-04-10, the action must be brought in the county in which the defendant or one of the defendants resides at the time of the commencement of the action. If that county is attached to another county for judicial purposes, the action must be brought in the latter county. If none of the defendants reside in the state, the action either must be brought in the county in which the plaintiff or one of the plaintiffs resides or in the county in which the cause of action arose.

**28-04-05.1. Venue of trials.**

Notwithstanding any other provision of this chapter, if the county seats of adjoining counties are less than ten miles [16.10 kilometers] apart and are located in the same judicial district, the district court may hold any trial or hearing in either county. In the case of a jury trial, the jury panel must be composed of residents of the county of venue as would otherwise be determined under this chapter even if the case is not tried in that county.

**28-04-06. Action triable in improper county unless defendant requests change - Exception.**

Repealed by S.L. 1997, ch. 274, § 11.

**28-04-07. Court may change venue - Cases.**

The court may change the place of trial in the following cases:

1. When the county designated for that purpose in the complaint is not the proper county.
2. When there is reason to believe that an impartial trial cannot be had therein.
3. When the convenience of witnesses and the ends of justice would be promoted by the change.
4. When upon the call of the calendar at any regular or special term there appears to be an insufficient number of jury cases for trial to warrant the expense of a jury, the court, on application of any party to such an action, or on its own motion, taking into consideration the convenience of witnesses and the promotion of justice, may order the transfer of such jury cases as are on the calendar to any county within the judicial district where a jury session of court will be held in the immediate future, so that a prompt trial of such cases may be had.

**28-04-08. Effect and transfer of papers upon change of venue.**

When the place of trial is changed, all other proceedings must be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed, and the papers must be filed or transferred accordingly.

**28-04-09. 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.

**28-04-10. 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 27-09.1-05.1.