

**MONTANA FIRST JUDICIAL DISTRICT COURT
BROADWATER COUNTY**

Cause No. ADV-2026-7

**ORDER – MOTION TO
TRANSFER VENUE**

RIKKI HELD; SARIEL SANDOVAL;
EVA LIGHTHISER; KIAN TANNER;
TALEAH HERNANDEZ; OLIVIA
VESOVICH; LANDER BUSSE;
CLAIRE VLASES; KATHRYN
GRACE GIBSON-SNYDER; RUBY
D., by and through her guardian Shane
Doyle; LILIAN D., by and through her
guardian Shane Doyle; MICA K., by
and through his guardian Rachel Kantor;
BADGE B., by and through hi guardian
Sara Busse; JORJA McCORMICK;
ISAAH H., by and through his guardian
Michael Hudson; and JASPER H., by
and through his guardian Michael
Hudson,

Plaintiffs,

v.

STATE OF MONTANA, GOVERNOR
GREG GIANFORTE, and MONTANA
DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Defendants.

1 Before the Court is Defendants State of Montana and Intervenor
2 Brandon Ler's (collectively "State") motion to transfer venue. Plaintiffs Rikki
3 Held, Sariel Sanfoval, Eva Lighthiser, Kian Tanner, Taleah Hernandez, Olivia
4 Vesovich, Lander Busse, Claire Vlases, Kathryn Grace Gibson-Snider, Ruby D.,
5 Lilian D., Mica K., Badge B., Jorja McCormick, and Jasper H. (Held) oppose the
6 motion. Defendants Governor Greg Gianforte (Gianforte) and Montana
7 Department of Environmental Quality (DEQ) do not take a position on the
8 motion. Montana Attorney General Austin Knudsen, Michael Russell, and Thane
9 Johnson represent the State. Christian B. Corrigan and Brent A. Mead represent
10 Brandon Ler (Ler). Roger Sullivan, Nathan Bellinger and David Schwartz
11 represent Held.

12 STATEMENT OF FACTS

13 Plaintiffs are children and youth in Montana, between the ages of
14 thirteen and twenty-four. Plaintiffs Rikki Held, Sariel Sandoval, Eva Lighthiser,
15 Kian Tanner, Taleah Hernández, Olivia Vesovich, Lander Busse, Claire Vlases,
16 Kathryn Grace Gibson-Snyder, Ruby D., Lilian D., Mica K., and Badge B. were
17 plaintiffs in *Held v. State of Montana*, 2024 MT 312, 419 Mont. 403, 560 P.3d
18 1235. Held seeks equitable relief from laws passed during the 2025 legislative
19 session which Plaintiffs allege exacerbate injuries caused by Montana's fossil
20 fuel pollution and climate change.

21 In Count I, Held seeks declaratory judgment that changes to the
22 Montana Environmental Policy Act (MEPA) violate Article II, § 3 and Article
23 IX, § 1 of the Montana Constitution. In Count II, Held seeks declaratory
24 judgment that changes to the Montana Clean Air Act (CAA) violate Article II, §
25 3 and Article IX, § 1 of the Montana Constitution. In Count III, Held seeks a

1 writ of mandamus requiring DEQ to prepare and develop a constitutionally
2 compliant comprehensive plan for the prevention, abatement, and control of
3 Montana's greenhouse gas (GHG) emissions, as required by Montana's Clean
4 Air Act and the Montana Constitution.

5 The statutory changes to MEPA were enacted through Senate Bill
6 221 (SB 221) and House Bill 285 (HB 285). Senator Wylie Galt, representing
7 Senate District 39, was the primary sponsor of SB 221. Senate District 39
8 encompasses Broadwater County, which falls within the First Judicial District.
9 Representative Brandon Ler, representing House District 33, was the primary
10 sponsor of HB 285. House District 33 encompasses Dawson and Richland
11 counties, which fall within the Seventh Judicial District. The statutory changes
12 to the CAA were enacted through House Bill 291 (HB 291). Representative
13 Greg Oblander, representing House District 38, was the primary sponsor of HB
14 291. House District 38 encompasses Golden Valley, Musselshell, and
15 Yellowstone counties, which fall within the Thirteenth and Fourteenth Judicial
16 Districts.

17 **PRINCIPLES OF LAW**

18 The determination of proper venue is based upon the allegations in
19 the complaint. *Allen v. Atlantic Richfield Co.*, 2005 MT 281, ¶ 11, 329 Mont.
20 230, 124 P.3d 132. Whether a county is the proper venue for trial is an issue of
21 law involving the application of the venue statutes to the pleaded facts. *Farmers*
22 *Union Ass'n v. Paquin*, 2009 MT 305, ¶ 5, 352 Mont. 390, 217 P.3d 74. The
23 burden of proof is upon the moving party seeking the change of place of trial.
24 *Rapp v. Graham*, 145 Mont. 371, 373, 401 P.2d 579, 581 (1965).

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“In the construction of a statute, the intention of the legislature is to be pursued if possible. When a general and particular provision are inconsistent, the latter is paramount to the former, so a particular intent will control a general one that is inconsistent with it.” Mont. Code Ann. § 1-2-102. When interpreting a statute, this Court begins with the plain language of the statute. *State v. Christensen*, 2020 MT 237, ¶ 95, 401 Mont. 247, 472 P.3d 622. The plain meaning of a statute controls when the legislative intent can be “determined from the plain meaning of the words used in the statute.” *Christensen*, ¶ 95. In construing a statute, the function of the court is simply to ascertain and declare what is in terms or substance contained therein, not to insert what has been omitted nor to omit what has been inserted. *State ex rel. Cashmore v. Anderson*, 160 Mont. 175, 184, 500 P.2d 921, 926 (1972). The rules of statutory construction require the court to construe several interrelated statutes in a manner which will give effect to each of them. *City of Missoula v. Fox*, 2019 MT 250, ¶ 18, 397 Mont. 388, 450 P.3d 898.

ANALYSIS

The State moves to transfer venue from the Montana First Judicial District Court, Broadwater County to the Montana Seventh Judicial District Court, Richland County. In support of its motion, the State argues Montana Code Annotated § 25-2-201(5) requires transfer of venue to Richland County because Speaker of the House Ler intervened in the litigation and Richland County is located in his legislative district. Alternatively, the State argues Montana Code Annotated §§ 25-2-201(4) and 25-2-127(1) requires transfer of venue.

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1 Held filed this action in Broadwater County in reliance on Montana Code
2 Annotated § 25-2-127. Section 25-2-127 was enacted during the 2025 legislative
3 session as Section 1 of Senate Bill 97 (SB 97). It provides:

4 **25-2-127. Challenge to recently enacted law.** (1) The proper place
5 of trial for an action that challenges a statute or session law enacted
6 or amended within the legislative biennium is in a county that is
7 wholly or partially within the legislative district of the primary
sponsor of the bill that enacted or amended the statute or session law.

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

9 (a) "Challenge" means:

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

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

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

17 Mont. Code Ann. § 25-2-127.

18 In this litigation, Held challenges the provisions of Senate Bill 221
19 (SB 221), which the 2025 Legislature enacted into law. The primary sponsor of
20 SB 221 was Senator Wily Galt, whose legislative district includes Broadwater
21 County. Consequently, Broadwater County is a proper county for this action
22 pursuant to Montana Code Annotated § 25-1-127.

23 The State argues that Broadwater County is an improper venue and
24 Richland County is the proper venue because Montana Code Annotated
25 § 25-2-201(5) designates the county of a legislative intervenor as the proper

1 county and Montana Code Annotated § 25-2-201(5), the more specific statute,
2 controls venue in this case. The State asserts its motion for a change of venue is
3 proper because “a defendant is permitted to move for a change of venue to an
4 appropriate county if the action was brought in an improper venue” citing *Betts v.*
5 *Gunlikson*, 2019 MT 183, ¶ 9, 396 Mont. 509, 445 P.3d 1223.¹ Relying on *Betts*,
6 the State argues Broadwater County is not a proper venue because (1) Montana
7 Code Annotated § 25-2-201(5) is a more specific statute which supersedes
8 Montana Code Annotated § 25-2-127; and (2) Montana Code Annotated § 25-2-
9 201(5) designates the proper county as Richland County.

10 In *Betts*, a trust filed a tort action against the former trustee. The
11 complaint was filed in Missoula County, which was the county in which the
12 trust’s principal place of administration occurred. The Montana Uniform Trust
13 Code, Montana Code Annotated. § 72-38-205(1), provides:

14 Except as otherwise provided in subsection (2), *venue for a judicial*
15 *proceeding involving a trust is in the county of this state in which the*
16 *trust's principal place of administration is or will be located* and, if
17 the trust is created by will and the estate is not yet closed, in the
18 county in which the decedent's estate is being administered.
(emphasis added).

19 Mont. Code Ann. § 72-38-205(1).

20 The former trustee filed a motion for change of venue, arguing
21 venue was proper in Flathead County pursuant to Montana Code Annotated
22 § 25-2-122, which provides that the county in which a tort is committed is a
23 proper place of trial.

24 The Supreme Court concluded Montana Code Annotated
25

¹ There, the Montana Supreme Court determined the “proper venue will generally be determined by the venue statutes in Title 25, chapter 2, part 1, of the MCA.” *Id.* The Court ultimately concluded that both the county in which the case was filed and the county in which venue was sought to be transferred were both proper counties.
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1 § 25-2-122 and § 72-38-205(1) both applied and Missoula County and Flathead
2 County were both proper counties. Although both counties were proper venues,
3 the Court held that Montana Code Annotated § 72-38-205(1), the more specific
4 statute, controlled over § 25-2-122, the general venue statute. Therefore, venue
5 resided in Missoula County. The Court further held “when there are multiple
6 proper counties for a proceeding and the party initiating the proceeding brings the
7 action in a proper county, ‘no motion may be granted to change the place of trial
8 upon the ground that the action is not brought in a proper county.’” *Id.* at ¶ 12.

9 Montana Code Annotated § 25-2-201, which the State argues is the
10 more specific statute in this matter, provides:

11 **25-2-201. When change of venue required.** The court or judge
12 shall, on motion, change the place of trial in the following cases:

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

15 (2) when there is reason to believe that an impartial trial cannot be
16 had in the current place of trial;

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

19 (4) when a party enters a pleading that challenges, as defined in
20 25-2-127, a statute or session law if the statute or session law was
21 enacted or amended within the legislative biennium, as defined in
22 25-2-127; and

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

25 Mont. Code Ann. § 25-2-201.

Unlike Montana Code Annotated § 72-38-205(1), which provides
that venue is proper “in the county of this state in which the trust's principal place
of administration is or will be located,” Montana Code Annotated § 25-2-201
does not identify any location as a proper place for trial. Rather it provides a

1 process for moving a trial from one venue to another. It is not more specific than
2 Montana Code Annotated § 25-2-127 because it does not identify any county,
3 Richland County or otherwise, as a proper place for trial. The State's reliance on
4 *Betts* is misplaced because there the Court held "when there are multiple proper
5 counties for a proceeding and the party initiating the proceeding brings the action
6 in a proper county, 'no motion may be granted to change the place of trial upon
7 the ground that the action is not brought in a proper county....'" *Id.* at ¶ 12,
8 citing Mont. Code Ann. § 25-2-115.

9 Moreover, Montana Code Annotated § 25-2-117 provides "[I]f
10 there are two or more defendants in an action, a county that is a proper place of
11 trial for any defendant is proper for all defendants."

12 [T]he law makes clear that where there are two or more defendants,
13 "a proper place of trial for any defendant is proper for all
14 defendants." Section 25-2-117, MCA. This statute "is intended to
15 apply to all venue provisions." *Weiss v. State*, 219 Mont. 447, 450,
16 712 P.2d 1315, 1317 (1986). "[T]he right to move for a change of
17 venue under § 25-2-117, MCA, applies only if the action is filed in a
18 county that is a proper place of trial for *none* of the defendants."
Farmers Union Ass'n v. Paquin, 2009 MT 305, ¶ 12, 352 Mont. 390,
217 P.3d 74 (emphasis added).

19 *Ward v. Johnson*, 2012 MT 96, ¶ 16, 365 Mont. 19, 277 P.3d 1216.

20 Broadwater County is a proper place of trial for Governor
21 Gianforte and the Montana Department of Environmental Quality, who do not
22 contest venue in Broadwater County. Consequently, it is also a proper place of
23 trial for Speaker Ler and the State of Montana. The State is precluded from
24 bringing a motion to change venue pursuant to Montana Code Annotated
25 § 25-2-117, *Betts* and *Ward*.

1 Alternatively, the State argues “Section 25-2-201(4) separately
2 requires venue to be transferred to Richland County because Plaintiffs challenge
3 HB 285, which Speaker Ler sponsored.” *State’s Brief in Support*, p. 8.

4 However, subsection (4) of Montana Code Annotated § 25-2-201, like subsection
5 (5), does not identify any location as the proper place of trial. It simply provides
6 a process for requesting a change of venue.

7 Apparently conceding that Broadwater County is a proper county,
8 the State frames the issue as one resolving venue when there is more than one
9 proper place for trial. It argues the State’s choice of forum should control
10 because “venue is not a substantive right of the plaintiff, but a personal privilege
11 belonging to the defendant.” Citing *In re Support Obligation of McGurran*, 2002
12 MT 144, ¶ 13, 310 Mont. 268, 271–72, 49 P.3d 626 (2002). *State’s Brief in*
13 *Support*, p. 8. Accordingly, the State argues the balance tips in favor of Richland
14 County. The cite from *McGurran* is not persuasive because it is dicta. The issue
15 in *McGurran* was whether the district court erred when it dismissed a petition for
16 judicial review for lack of jurisdiction.

17 Montana Code Annotated § 25-2-126 designates the county of the
18 plaintiff’s residence as a proper place of trial in an action against the State.
19 Montana recognizes that in actions against the State, the purpose of venue
20 statutes “is to afford the citizen a forum that is not so distant and remote that
21 access to it is impractical and expensive. To that end, such provisions should be
22 liberally construed in favor of the private litigant.” *Petersen v. Tucker*, 228
23 Mont. 393, 396, 742 P.2d 483, 484 (1987).

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1 The State next argues Montana Code Annotated § 25-2-116 is applicable.
2 It provides:

3 **25-2-116. Multiple claims.** In an action involving two or more
4 claims for which this part designates more than one as a proper place
5 of trial, a party entitled to a change of place of trial on any claim is
6 entitled to a change of place of trial on the entire action, subject to
7 the power of the court to separate claims or issues for trial under
8 Rule 42(b) of the Montana Rules of Civil Procedure.

9 Mont. Code Ann. § 25-2-116.

10 Although not a model of clarity, this statute does not address the question of
11 proper venue when there is more than one proper place of trial. Rather, the
12 statute addresses which claims are transferred if a party is entitled to a change of
13 place of trial.

14 Finally, the State argues “Section 25-2-201(4) was enacted to
15 address a specific problem: forum shopping in challenges to newly enacted laws.
16 The Legislature responded by tying venue to the bill sponsor’s legislative
17 district.” However, Montana Code Annotated § 25-2-201 does not identify any
18 venue, let alone tie it to a bill sponsor’s legislative district. It was not the
19 amendments to Montana Code Annotated § 25-2-201 which were designed to
20 address forum shopping. Rather, it was the adoption of Montana Code Annotated
21 § 25-2-127 designating the proper place of trial for challenges to statutes and
22 amending other venue statutes with respect to statutory challenges. Moreover, if
23 the purpose of SB 97 was to limit forum shopping, that purpose would not be
24 served by transferring venue from one proper county, Broadwater County, to
25 another proper county, Richland County.

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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. . . .

Sections 1 through 4 of the bill, amending Montana Code Annotated §§ 25-2-118, 25-2-125, and 25-2-126 accomplished the first goal and Section 5, amending 25-2-201, accomplished the second goal. The bill did not address the situation presented in the instant case—in which there are multiple proper counties. Resolution of this issue is left to the existing venue statutes.

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1 Environmental Quality, who do not challenge venue. Because Broadwater
2 County is a proper county for Governor Gianforte and the Montana Department
3 of Environmental Quality, it is a proper county for The State of Montana and
4 Representative Ler.

5 **ORDER**

6 **IT IS HEREBY ORDERED** Defendant State of Montana and
7 Intervenor Brandon Ler's motion to transfer venue is **DENIED**.

8 **IT IS HEREBY FURTHER ORDERED** Plaintiffs' motion for
9 oral argument is **DENIED**.

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11
12 /s/ Mike Menahan
13 MIKE MENAHAN
14 District Court Judge

15 cc via email: Nathan Bellinger
16 Matthew H. Dolphay
17 Samuel J. King
18 Isabelle Nevel
19 Michael Russell
20 Dale Schowengerdt
21 David Schwartz
22 Jeremiah R. Langston
23 Thane Johnson
Brent Mead
Christian Corrigan
Roger M. Sullivan

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