

(VETOED BY THE GOVERNOR)

This bill changes the laws affecting claims for damages and payment for the claims. In its main provisions, the bill:

(1) Establishes venue in all tort actions in which the cause of action accrued in Missouri, including torts for improper health care, in any county within the judicial circuit where the cause of action accrued;

(2) Establishes the following venues in all tort actions in which the cause of action accrued outside Missouri:

(a) For individual defendants, the venue will be in any county within the judicial circuit of the individual's principal place of residence; and

(b) For corporate defendants, the venue will be in any county within the judicial circuit where the corporate defendant's registered agent is located or, if there are one or two plaintiffs and either was a resident of Missouri at the time the cause accrued, then the venue will be in any county within the judicial circuit of a plaintiff's principal place of residence;

(3) Defines the term "judicial circuit where the cause of action accrued" for the purpose of determining venue in tort actions;

(4) Requires motions to dismiss or transfer based upon improper venue to be deemed granted if not denied within 90 days, unless the time period is waived in writing by all parties;

(5) Allows discovery of a defendant's assets in tort actions, including torts for improper health care, only after a court determines that it's more likely than not that the plaintiff will present a submissible case on punitive damages;

(6) Provides that a defendant will be jointly and severally liable for the amount of compensatory and noneconomic damages only with those defendants whose apportioned percentage of fault is less than the defendant but not for more than the percentage of punitive damages for which fault is attributed to the defendant by the trier of fact;

(7) Adds long-term care facilities licensed pursuant to Chapter 198, RSMo, to the definition of "health care provider" as used in Chapter 538;

(8) Changes the cap on noneconomic damages from its current

limit of \$565,000 (after the annual inflation adjustment of the base amount of \$350,000 established in 1986) to \$400,000, without an inflation adjustment, and removes the per occurrence language in response to a Missouri Supreme Court decision;

(9) Limits civil damages recoverable against certain physicians, dentists, hospitals, and others to \$200,000 for the care or assistance necessitated by traumatic injury and rendered in a hospital emergency room;

(10) Makes it mandatory rather than discretionary that a court dismiss any medical malpractice claim for which the plaintiff fails to file the required supporting expert affidavit and limits the extension of time to file the affidavit to an additional 90 days. The bill requires the expert to be licensed and authorized to practice in substantially the same specialty as the defendant and allows any defendant to request that the court review the expert opinion to determine whether the expert meets the required qualifications;

(11) Prohibits statements, writings, or benevolent gestures expressing sympathy from being admissible as evidence of an admission of liability in a civil action. Statements of fault will be admissible;

(12) Changes the requirements for awarding prejudgment interest in tort actions;

(13) Changes the rate of prejudgment interest awarded in tort actions from 9% per annum to a rate equal to the federal funds rate as established by the Federal Reserve Board, plus 3%. The rate of postjudgment interest awarded is changed from 9% per annum to a rate equal to the federal funds rate as established by the Federal Reserve Board, plus 5%;

(14) Requires future medical periodic payments to be made in an amount according to a schedule determined by the payee's life expectancy and ties the applicable interest rate to the average auction price of a 52-week United States Treasury bill;

(15) Requires a judge to transfer a case to a proper forum if at any time prior to the commencement of the trial, a plaintiff or defendant is added or removed from a complaint who if originally added or removed would have altered the determination of venue;

(16) Includes a severability clause; and

(17) Clarifies that the provisions of the bill will only apply to causes of action filed after August 28, 2004.

The bill has been vetoed by the Governor.