

HB 231 -- JOINDER AND VENUE

SPONSOR: Kolkmeier

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 12 to 5. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 6 to 1.

VENUE FOR INSURANCE COMPANIES

This bill specifies that an insurance company shall be deemed to reside in the county in which it maintains its registered office. A foreign insurance company without a registered office in any county in Missouri shall be deemed to reside in, and be a resident of, Cole County.

Venue for tort and contract claims in which there is a count against an insurer shall be in the county where the insurer resides, or in the county in which the insured's principal place of residence was located at the time the insurance was issued. Venue shall be determined by these provisions even if the insured's rights or claims under the policy have been assigned or transferred to another party. However, venue shall not be affected by intervention by an insurance company in an action where recovery has been contractually limited to the proceeds of an insurance policy. These provisions shall not apply to actions relating to uninsured or underinsured motorist coverage.

The bill also specifies how venue shall be determined in actions against an insurer relating to uninsured or underinsured motorist coverage. If an accident occurred in Missouri, venue shall be in the county in which the accident occurred. If an accident occurred outside of Missouri, venue shall be in the county where the insurer resides, or the Missouri county of the insured's principal place of residence at the time of the accident.

JOINDER

In a civil action where the plaintiff is injured outside of the state, claims arising out of separate purchases of the same product or separate incidents involving the same product shall not be joined regardless of whether the claims arise out of the same transaction, occurrence, or series of transactions or occurrences with a common question of law.

In addition to current law regarding when plaintiffs and defendants may join in one civil action, this bill states that, in tort actions, two or more plaintiffs may be joined in a single action only if each plaintiff can independently establish proper venue,

except that, if two or more plaintiffs in such a civil action could establish venue in an adjoining county that has less than 150,000 inhabitants, the plaintiffs may be joined in such adjoining county. Also, a plaintiff having proper venue in a county with 75,000 or less inhabitants may join in another currently pending action in a proper venue of another county with 75,000 or less inhabitants.

Likewise, two or more defendants may be joined in a single action only if the plaintiff can establish proper venue and personal jurisdiction for each defendant individually. If proper venue or personal jurisdiction cannot be established for each plaintiff or defendant, then the plaintiff or defendant will be deemed misjoined, the claims will be severed from the action, and the claims shall be transferred to a county with proper venue. If there is no county in Missouri in which venue exists, then the claims shall be dismissed without prejudice.

Misjoined parties may be joined only where at least one claim is properly pending in the court and all of the parties have waived their objection to the misjoinder.

VENUE

For the purposes of meeting the venue requirement, the principal place of residence for an individual whose employment conduct with a corporation in at least one county is at issue in the action shall be the corporation's principal place of residence. The principal place of residence for a corporation is the county where the corporation has its registered agent. When all defendants are nonresidents, proper venue in a non-tort action is any county in this state if there is personal jurisdiction over each defendant, independent of each other defendant.

In tort actions where the plaintiff was first injured outside the State of Missouri, venue shall be the, rather than any, county where the defendant corporation has its principal place of residence. If the defendant is an individual, then venue shall be the, rather than any, county where the defendant has his or her principal place of residence, which shall be that of his or her employer corporation if any count alleges conduct in the course of employment.

In tort actions, each plaintiff shall establish that the court where the action is filed is a proper venue against each defendant, independent of the claims brought by any other plaintiff or against any other defendant. Venue cannot be established by joinder or intervention. If the county where the action is filed is not proper venue, the plaintiff shall be transferred to a county where proper venue can be established. If no such county exists, then

the claim shall be dismissed without prejudice.

Currently, a products liability order of dismissal for a defendant whose liability is based solely on his or her status as a seller shall not divest a court of venue or jurisdiction that was proper at the beginning of the action. Further, the defendant seller dismissed in the action shall remain a party to such action for venue and jurisdiction purposes. This bill repeals these provisions.

This bill is similar to SB 7 (2019).

PROPOSERS: Supporters say that there have been previous reforms to reduce forum shopping, so there have been many plaintiffs who have no connection to St. Louis who have been brought to St. Louis, which is a very plaintiff-friendly jurisdiction. This legislation will close that loophole so plaintiffs will at least need a connection to the venue. Out of 13,000 plaintiffs with mass tort litigation, only 242 were from St. Louis and only approximately 1000 were from Missouri. Because these are not class action lawsuits, they are not removed to federal court. The big issue is joinder--who gets to file a suit, who gets to be a party to the suit, and what connection the person has to the suit. Stare decisis is not what it used to be, and it is not uncommon for it to be overturned. People are interested in getting to certain counties because they want to find jurors who are friendly to plaintiffs. Supreme Court Rules allow for consolidation of cases where it is the same question of law and fact, and those rules supersede ours if there is a conflict. Additionally, this legislation places insurance carriers on equal footing with other corporations, so insurance companies cannot take advantage of venue issues.

Testifying for the bill were Representative Kolkmeyer; Missouri Organization of Defense Lawyers; William C. Crawford; Burlington Northern Santa Fe Railroad; The Doctors Company; Property Casualty Insurers Association of America; The Missouri Civil Justice Reform Coalition; Missouri Chamber of Commerce & Industry; Associated Industries of Missouri; National Federation of Independent Business; Pfizer; Monsanto; Enterprise Leasing of St. Louis; The Doe Run Company; General Motors LLC; Missouri Railroad Association; Missouri Hospital Association; and Emerson.

OPPOSERS: Those who oppose the bill say that the primary concern is the inflow of out-of-state plaintiffs, including corporations. This bill will have a devastating effect on Missouri citizens who are injured by out-of-state individuals. It saves taxpayers money to appear for one case in front of one judge. Also, it is tough with venue and rural counties because sometimes you don't have a big enough pot to choose from.

Testifying against the bill was Missouri Association of Trial Attorneys.