

BILL ANALYSIS

C.S.H.B. 755
By: Gattis
Civil Practices
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Section 71.051, Civil Practice and Remedies Code, addresses the legal doctrine of forum non conveniens. This doctrine pertains to which jurisdiction, in the interest of justice and for the convenience of the parties to a lawsuit, is the proper location for a claim or action to be heard. The doctrine of forum non conveniens allows courts to dismiss cases otherwise within their jurisdiction in order to allow the litigation to proceed in a more convenient forum.

Section 71.051(f), Civil Practice and Remedies Code, provides that a court may not stay or dismiss a claim or action if a party opposing the motion alleges and makes a prima facie showing that an act or omission that was a proximate or producing cause of the injury or death occurred in this state. Subsection (f) goes on to provide that the prima facie showing need not be made by a preponderance of the evidence and shall be deemed to be satisfied if the party produces credible evidence in support of the pleading, which evidence need not be in admissible form and may include affidavits, deposition testimony, discovery responses, or other verified evidence.

C.S.H.B 755 amends Section 71.051, Civil Practice and Remedies Code, by repealing Section 71.051(f) and permits the court, under Section 71.051(b), Civil Practice and Remedies Code, to consider the extent to which an injury or death resulted from acts or omissions that occurred in this state when determining whether to grant a motion to stay or dismiss under the doctrine of forum non conveniens.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B 755 amends Section 71.051(b)(5), Civil Practice and Remedies Code, by adding language allowing the court to consider the extent to which an injury or death resulted from acts or omissions that occurred in this state in determining whether to grant a motion to stay or dismiss an action under the doctrine of forum non conveniens. Further, C.S.H.B. 755 repeals Section 71.051(f), Civil Practice and Remedies Code.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 755 adds language allowing the court to consider the extent to which an injury or death resulted from acts or omissions that occurred in this state in Section 71.051(b)(5), Civil Practice and Remedies Code.