

BILL ANALYSIS

Senate Research Center
79R3555 HLT-D

S.B. 294
By: Duncan
State Affairs
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

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. For Texas cases involving wrongful death, survival, or personal injury (occurring outside the state of Texas), Section 71.051, Civil Practice and Remedies Code, governs forum non conveniens analysis. Section 71.051(f) provides that a court may not dismiss a claim or action if an act or omission that was a proximate or producing cause of the injury or death occurred in the State of Texas.

This bill attempts to rectify the problem with Section 71.051(f) as applied in the Pomranky case. The plaintiff in Pomranky was a Michigan resident who had worked through his life at various factories, all located in Michigan. He filed suit alleging asbestos-related injuries against various property owners and manufacturers, all located in Michigan. He claimed that he was injured from asbestos located at the property where he worked and contained in the products with which he worked. Incidentally, all of the property at issue was located in Michigan and all of the products at issue were used in Michigan. Furthermore, the plaintiff, defendants, physicians, and other witnesses with knowledge of the case were located in Michigan. Continuing the case in Wharton County, Texas, would require the parties to travel across the country for court appearances.

Nonetheless, Judge Davidson denied the defendants' motion to dismiss the case for forum non conveniens. Because one of the defendants manufactured a glove in Wharton County that may have been a proximate or producing cause of the plaintiff's injury, Judge Davidson felt that he had no choice but to deny the motion. Section 71.051(f) required the case to remain in Texas.

As proposed, S.B. 294 repeals Section 71.051(f) to give judges more discretion in cases of forum non conveniens.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Repealer: Section 71.051(f) (Forum Non Conveniens), Civil Practice and Remedies Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.