

By: Gattis

H.B. No. 755

A BILL TO BE ENTITLED

1 AN ACT

2 relating to procedures relating to the doctrine of forum non  
3 conveniens in a civil cause of action.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 71.051(b) and (f), Civil Practice and  
6 Remedies Code, are amended to read as follows:

7 (b) If a court of this state, on written motion of a party,  
8 finds that in the interest of justice and for the convenience of the  
9 parties a claim or action to which this section applies would be  
10 more properly heard in a forum outside this state, the court shall  
11 decline to exercise jurisdiction under the doctrine of forum non  
12 conveniens and shall stay or dismiss the claim or action. In  
13 determining whether to grant a motion to stay or dismiss an action  
14 under the doctrine of forum non conveniens, the court shall [~~may~~]  
15 consider whether:

16 (1) an alternate forum exists in which the claim or  
17 action may be tried;

18 (2) the alternate forum provides an adequate remedy;

19 (3) maintenance of the claim or action in the courts of  
20 this state would work a substantial injustice to the moving party;

21 (4) the alternate forum, as a result of the submission  
22 of the parties or otherwise, can exercise jurisdiction over all the  
23 defendants properly joined to the plaintiff's claim;

24 (5) the balance of the private interests of the

1 parties and the public interest of the state predominate in favor of  
2 the claim or action being brought in an alternate forum, which may  
3 include consideration of the extent to which an injury or death  
4 resulted from acts or omissions that occurred in this state; and

5 (6) the stay or dismissal would not result in  
6 unreasonable duplication or proliferation of litigation.

7 (f) A court that grants a motion to stay or dismiss an action  
8 under the doctrine of forum non conveniens shall set forth specific  
9 findings of fact and conclusions of law [~~may not stay or dismiss a~~  
10 ~~claim or action pursuant to Subsection (b) if a party opposing the~~  
11 ~~motion under Subsection (b) alleges and makes a prima facie showing~~  
12 ~~that an act or omission that was a proximate or producing cause of~~  
13 ~~the injury or death occurred in this state. The prima facie showing~~  
14 ~~need not be made by a preponderance of the evidence and shall be~~  
15 ~~deemed to be satisfied if the party produces credible evidence in~~  
16 ~~support of the pleading, which evidence need not be in admissible~~  
17 ~~form and may include affidavits, deposition testimony, discovery~~  
18 ~~responses, or other verified evidence].~~

19 SECTION 2. This Act applies only to an action filed on or  
20 after the effective date of this Act. An action filed before the  
21 effective date of this Act, including an action filed before that  
22 date in which a party is joined or designated after that date, is  
23 governed by the law in effect immediately before the change in law  
24 made by this Act, and that law is continued in effect for that  
25 purpose.

26 SECTION 3. This Act takes effect September 1, 2005.