

AN ACT

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

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

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

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

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

(2) the alternate forum provides an adequate remedy;

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

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

(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 shall
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.

President of the Senate

Speaker of the House

I certify that H.B. No. 755 was passed by the House on March 23, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 755 on May 17, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 755 was passed by the Senate, with amendments, on May 10, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor