

SECOND REGULAR SESSION

# SENATE BILL NO. 924

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KINDER.

Read 1st time February 17, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3885.011

## AN ACT

To repeal section 509.290, RSMo 1994, and to enact in lieu thereof two new sections for the purpose of requiring the courts of this state to apply the doctrine of forum nonconveniens in civil cases.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 509.290, RSMo 1994, is repealed and two new sections enacted in lieu thereof, to be known as sections 508.075 and 509.290, to read as follows:

**508.075. 1. Each court of this state shall decline to exercise jurisdiction of any cause of action accruing outside the county in which the court is located if there is another forum with jurisdiction of the parties in which the trial can be more appropriately held taking into account the following:**

- (1) Place of accrual of the cause of action;**
- (2) Location of witnesses;**
- (3) The residence of the parties; and**
- (4) The public factor of the convenience to and burden upon the court.**

**2. Upon motion to be filed not later than ninety days after the last day allowed for the filing of that party's answer and upon such party's showing that the existing forum constitutes an inconvenient forum based on the factors in subsection 1 of this section, the court shall dismiss the action without prejudice on any conditions that may be just or transfer the case to a convenient forum.**

**3. If a court dismisses an action pursuant to subsection 2 of this section, the dismissal shall be under the following conditions:**

- (1) The defendant shall accept service of process from that court; and**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**(2) If the plaintiff elects to file the action in another forum within one year of the dismissal order, and if the statute of limitations has run in the other forum, the defendant shall waive that defense.**

**4. If the defendant refuses to abide by the conditions of subsection 3 of this section, the cause of action shall be reinstated in the court in which the dismissal was granted, or if the court in the other forum refuses to accept jurisdiction, the plaintiff may, within sixty days of the final order refusing jurisdiction, reinstate the cause of action in the court in which the dismissal was granted.**

**5. If a court transfers a case pursuant to subsection 2 of this section, the clerk of the court from which the transfer is granted shall immediately certify and transmit to the clerk of the court to which the transfer is ordered the originals of all papers filed in the case together with copies of all orders entered in such case.**

509.290. 1. The following objections and other matters may be raised by motion whether or not the same may appear from the pleadings and other papers filed in the cause:

- (1) Lack of jurisdiction over the subject matter;
- (2) Lack of jurisdiction over the person;
- (3) Improper venue **or inconvenient forum**;
- (4) Insufficiency of process;
- (5) Insufficiency of service of process;
- (6) That plaintiff should furnish security for costs;
- (7) That plaintiff has not legal capacity to sue;
- (8) That there is another action pending between the same parties for the same cause in this state;
- (9) That several claims have been improperly united;
- (10) That the counterclaim or cross-claim is one which cannot be properly interposed in the action.

2. The grounds of any of the [above] **motions described in subsection 1 of this section** may be supplied by affidavit and may be controverted by opposing affidavit in accordance with subsection 4 of section 506.060, RSMo.

✓