



Sen. Frank C. Watson

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09400SB1719sam001

LRB094 11342 LCB 46911 a

1 AMENDMENT TO SENATE BILL 1719

2 AMENDMENT NO. _____. Amend Senate Bill 1719, by replacing
3 the title with the following:

4 "An ACT concerning civil procedure."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Code of Civil Procedure is amended by
8 changing Sections 2-101, 2-102, 2-103, 2-104, 2-106, 2-107,
9 2-109, 2-404, and 2-405 as follows:

10 (735 ILCS 5/2-101) (from Ch. 110, par. 2-101)

11 Sec. 2-101. Generally. Except as otherwise provided in this
12 Act, every action must be commenced: (1) in the county of
13 residence of all defendants; ~~any defendant who is joined in~~
14 ~~good faith and with probable cause for the purpose of obtaining~~
15 ~~a judgment against him or her and not solely for the purpose of~~
16 ~~fixing venue in that county, or~~ (2) in the county in which the
17 most significant act or omission or the most significant event
18 or transaction or some part thereof occurred out of which the
19 cause of action arose; or (3) in the county in which the most
20 significant act or omission or the most significant event or
21 transaction occurred out of which the cause of action arose,
22 where there is more than one defendant and the defendants

1 reside in different counties or outside this State.

2 If a check, draft, money order, or other instrument for the
3 payment of child support payable to or delivered to the State
4 Disbursement Unit established under Section 10-26 of the
5 Illinois Public Aid Code is returned by the bank or depository
6 for any reason, venue for the enforcement of any criminal
7 proceedings or civil cause of action for recovery and attorney
8 fees shall be in the county where the principal office of the
9 State Disbursement Unit is located.

10 ~~If all defendants are nonresidents of the State, an action~~
11 ~~may be commenced in any county.~~

12 If the corporate limits of a city, village or town extend
13 into more than one county, then the venue of an action or
14 proceeding instituted by that municipality to enforce any fine,
15 imprisonment, penalty or forfeiture for violation of any
16 ordinance of that municipality, regardless of the county in
17 which the violation was committed or occurred, may be in the
18 appropriate court (i) in the county wherein the office of the
19 clerk of the municipality is located or (ii) in any county in
20 which at least 35% of the territory within the municipality's
21 corporate limits is located.

22 The changes made by this amendatory Act of the 94th General
23 Assembly apply to causes of action filed on or after its
24 effective date.

25 (Source: P.A. 91-212, eff. 7-20-99.)

26 (735 ILCS 5/2-102) (from Ch. 110, par. 2-102)

27 Sec. 2-102. Residence of corporations, voluntary
28 unincorporated associations and partnerships defined. For
29 purposes of venue, the following definitions apply:

30 (a) Any private corporation or railroad or bridge company,
31 organized under the laws of this State, and any foreign
32 corporation authorized to transact business in this State is a
33 resident of the county in which the corporation or company has

1 ~~its principal place of business. any county in which it has its~~
2 ~~registered office or other office or is doing business. A~~
3 ~~foreign corporation not authorized to transact business in this~~
4 ~~State is a nonresident of this State.~~

5 (b) A partnership sued in its firm name is a resident of
6 the county in which the partnership has its principal place of
7 business. ~~any county in which any partner resides or in which~~
8 ~~the partnership has an office or is doing business. A~~
9 ~~partnership sued in its firm name, of which all partners are~~
10 ~~nonresidents of this State and which does not have an office or~~
11 ~~do business in this State, is a nonresident of this State.~~

12 (c) A voluntary unincorporated association sued in its own
13 name is a resident of the county in which the association has
14 its principal place of business. ~~any county in which the~~
15 ~~association has an office or, if on due inquiry no office can~~
16 ~~be found, in which any officer of the association resides. A~~
17 ~~voluntary unincorporated association sued in its own name, of~~
18 ~~which all its members are nonresidents of this State and which~~
19 ~~does not have an office or do business in this State, is a~~
20 ~~nonresident of this State.~~

21 (d) The changes made by this amendatory Act of the 94th
22 General Assembly apply to causes of action filed on or after
23 its effective date.

24 (Source: P.A. 83-901.)

25 (735 ILCS 5/2-103) (from Ch. 110, par. 2-103)

26 Sec. 2-103. Public corporations - Local actions ~~—Libel—~~
27 ~~Insurance companies.~~

28 (a) Actions must be brought against a public, municipal,
29 governmental or quasi-municipal corporation in the county in
30 which its principal office is located or in the county in which
31 the most significant act or omission or the most significant
32 event or transaction ~~the transaction or some part thereof~~
33 occurred out of which the cause of action arose. Except as

1 otherwise provided in Section 7-102 of this Code, if the cause
2 of action is related to an airport owned by a unit of local
3 government or the property or aircraft operations thereof,
4 however, including an action challenging the constitutionality
5 of this amendatory Act of the 93rd General Assembly, the action
6 must be brought in the county in which the unit of local
7 government's principal office is located. Actions to recover
8 damage to real estate which may be overflowed or otherwise
9 damaged by reason of any act of the corporation may be brought
10 in the county where the real estate or some part of it is
11 situated, or in the county where the corporation is located, at
12 the option of the party claiming to be injured. Except as
13 otherwise provided in Section 7-102 of this Code, any cause of
14 action that is related to an airport owned by a unit of local
15 government, and that is pending on or after the effective date
16 of this amendatory Act of the 93rd General Assembly in a county
17 other than the county in which the unit of local government's
18 principal office is located, shall be transferred, upon motion
19 of any party under Section 2-106 of this Code, to the county in
20 which the unit of local government's principal office is
21 located.

22 (b) Any action to quiet title to real estate, or to
23 partition or recover possession thereof or to foreclose a
24 mortgage or other lien thereon, must be brought in the county
25 in which the real estate or some part of it is situated.

26 (c) Any action which is made local by any statute must be
27 brought in the county designated in the statute.

28 (d) Every action against any owner, publisher, editor,
29 author or printer of a newspaper or magazine of general
30 circulation for libel contained in that newspaper or magazine
31 may be commenced only in the county in which the defendant
32 resides or has his, her or its principal office or in which the
33 article was composed or printed, except when the defendant
34 resides or the article was printed without this State, in

1 either of which cases the action may be commenced in any county
2 in which the libel was circulated or published.

3 (e) The changes made by this amendatory Act of the 94th
4 General Assembly apply to causes of action filed on or after
5 its effective date. ~~Actions against any insurance company~~
6 ~~incorporated under the law of this State or doing business in~~
7 ~~this State may also be brought in any county in which the~~
8 ~~plaintiff or one of the plaintiffs may reside.~~

9 (Source: P.A. 93-450, eff. 8-6-03.)

10 (735 ILCS 5/2-104) (from Ch. 110, par. 2-104)

11 Sec. 2-104. Wrong venue - More proper venue - Waiver -
12 Motion to transfer.

13 (a) No order or judgment is void because rendered in the
14 wrong venue, except in case of judgment by confession as
15 provided in subsection (c) of Section 2-1301 of this Act. No
16 action shall abate or be dismissed because commenced in the
17 wrong venue if there is a proper venue to which the cause may
18 be transferred.

19 (b) If venue is improper in the county where the claim or
20 cause of action is filed, upon motion of any party, the claim
21 or cause of action shall be transferred to the county where
22 venue is proper. Where there are multiple claims or causes of
23 action and venue is improper for one or more of the claims or
24 causes of action, upon motion of any party, those claims or
25 causes of action shall be severed and transferred to the county
26 where venue is proper as to each such claim or cause of action.
27 If there is no proper venue for a claim or cause of action in
28 this State for any reason, the claim or cause of action shall
29 be dismissed without prejudice. ~~All objections of improper~~
30 ~~venue are waived by a defendant unless a motion to transfer to~~
31 ~~a proper venue is made by the defendant on or before the date~~
32 ~~upon which he or she is required to appear or within any~~
33 ~~further time that may be granted him or her to answer or move~~

1 ~~with respect to the complaint, except that if a defendant upon~~
2 ~~whose residence venue depends is dismissed upon motion of~~
3 ~~plaintiff, a remaining defendant may promptly move for transfer~~
4 ~~as though the dismissed defendant had not been a party.~~

5 (b-3) When venue is based on the defendant's or defendants'
6 residence, and additional defendants or third party defendants
7 are added to the claim or cause of action, venue remains proper
8 only if all defendants and third party defendants are residents
9 of the county where the claim or cause of action is filed. If
10 the additional defendants or third party defendants are not
11 residents of the same county, upon motion of any party, the
12 claim or cause of action shall be transferred to the county
13 where the most significant act or omission or the most
14 significant event or transaction occurred out of which the
15 cause of action arose. If there is no proper venue in this
16 State for any reason, the claim or cause of action shall be
17 dismissed without prejudice.

18 (b-5) If a court, on its own or upon motion by any party,
19 finds that in the interest of justice and for the convenience
20 of the parties and witnesses: (i) a claim or cause of action
21 would be more properly heard in a forum outside this State, the
22 court shall dismiss the claim or cause of action; or (ii) a
23 claim or cause of action would be more properly heard in a
24 different county of proper venue within this State, the court
25 shall order the claim or cause of action transferred to the
26 more proper county.

27 In determining whether to dismiss or transfer an action
28 under this subsection, the court shall consider the following
29 factors:

30 (1) the convenience of the parties, including
31 unnecessary expense to a defendant not necessary to the
32 plaintiffs cause of action;

33 (2) the unfairness of imposing trial costs and jury
34 duty on citizens of a county with little connection to the

1 action;

2 (3) administrative difficulties that arise from
3 congested venues;

4 (4) the ease of access to sources of testimonial,
5 documentary, and real evidence;

6 (5) the availability to secure attendance of unwilling
7 witnesses with compulsory process;

8 (6) the cost to procure the attendance of willing
9 witnesses;

10 (7) the possibility of viewing of the premises, if
11 viewing would be appropriate to the action; and

12 (8) the court can reasonably conclude that the
13 plaintiff engaged in forum shopping.

14 (b-7) A court may not dismiss a claim or cause of action
15 under this Section until the defendant files with the court or
16 with the clerk of the court a written stipulation that, with
17 respect to a new claim or cause of action commenced by the
18 plaintiff, the defendant waives the right to assert a statute
19 of limitations defense in all other states of the United States
20 in which the claim or cause of action was not barred by
21 limitations at the time the claim or cause of action was filed
22 in this State as necessary to effect a tolling of the
23 limitations periods in those states for a period of 90 days
24 following the dismissal of the claim or cause of action. In any
25 civil action where more than one defendant or third party
26 defendant is named, any defendant or third party defendant that
27 files the required stipulation with the court or the clerk of
28 the court shall be dismissed from the civil action independent
29 of any other defendant or third party defendant.

30 (b-9) To comply with subsection (b) of this Section in
31 relation to an action that involves both claims that would and
32 would not be more properly heard in a forum outside this State
33 or in a different county within this State, a court shall
34 consider each claim individually and shall sever from the

1 action the claims that are subject to subsection (b) of this
2 Section.

3 (c) Motions to dismiss or for transfer to a proper venue
4 may be supported and opposed by affidavit. In determining
5 issues of fact raised by affidavits, any competent evidence
6 adduced by the parties shall also be considered. The
7 determination of any issue of fact in connection with a motion
8 to transfer does not constitute a determination of the merits
9 of the case or any aspect thereof.

10 (d) The changes made by this amendatory Act of the 94th
11 General Assembly apply to causes of action filed on or after
12 its effective date.

13 (Source: P.A. 83-707.)

14 (735 ILCS 5/2-106) (from Ch. 110, par. 2-106)

15 Sec. 2-106. ~~Transfer. (a) Transfer for wrong venue. If a~~
16 ~~motion to transfer is allowed on the ground that the action was~~
17 ~~commenced in a wrong venue, the cause shall be transferred to~~
18 ~~the court in a proper venue, subject to any equitable terms and~~
19 ~~conditions that may be prescribed.~~

20 ~~(b)~~ Method of transfer. The clerk of the court from which a
21 transfer is granted shall immediately certify and transmit to
22 the clerk of the court to which the transfer is ordered the
23 originals of all papers filed in the case together with copies
24 of all orders entered therein. In the event of a severance,
25 certified copies of papers filed and orders entered shall be
26 transmitted. The clerk of the court to which the transfer is
27 ordered shall file the papers and transcript transmitted to him
28 or her and docket the case, and the action shall proceed and be
29 determined as if it had originated in that court.

30 The changes made by this amendatory Act of the 94th General
31 Assembly apply to causes of action filed on or after its
32 effective date.

33 (Source: P.A. 82-280.)

1 (735 ILCS 5/2-107) (from Ch. 110, par. 2-107)

2 Sec. 2-107. Costs and expenses of transfer. The costs
3 attending a transfer shall be taxed by the clerk of the court
4 from which the transfer is granted, and, together with the
5 filing fee in the transferee court, shall be paid by plaintiff,
6 unless otherwise ordered by the court. ~~If the court granting~~
7 ~~the transfer finds that venue was fixed by plaintiff in bad~~
8 ~~faith and without probable cause, then it may order the~~
9 ~~reasonable expenses of defendant in attending and obtaining a~~
10 ~~transfer to a proper venue, including a reasonable attorney's~~
11 ~~fee, to be paid by plaintiff.~~ If the costs and expenses are not
12 paid within a reasonable time, the transferring court shall on
13 motion dismiss the action or take such other action as it deems
14 appropriate.

15 The changes made by this amendatory Act of the 94th General
16 Assembly apply to causes of action filed on or after its
17 effective date.

18 (Source: P.A. 82-280.)

19 (735 ILCS 5/2-404) (from Ch. 110, par. 2-404)

20 Sec. 2-404. Joinder of plaintiffs. All persons may join in
21 one action as plaintiffs, in whom any right to relief in
22 respect of or arising out of the same transaction or series of
23 transactions is alleged to exist, whether jointly, severally or
24 in the alternative, whenever if those persons had brought
25 separate actions any common question of law or fact would
26 arise. Where more than one plaintiff is joined, each plaintiff
27 shall independently establish proper venue, and it is not
28 sufficient that venue is proper for other plaintiffs joined in
29 the civil action. If upon the application of any party it shall
30 appear that joinder may embarrass or delay the trial of the
31 action, the court may order separate trials or enter any other
32 order that may be expedient. Judgment may be entered for any

1 one or more of the plaintiffs who may be found to be entitled
2 to relief, for the relief to which he or she or they may be
3 entitled.

4 If any one who is a necessary plaintiff, counterclaimant or
5 third-party plaintiff declines to join, he or she may be made a
6 defendant, cross defendant or third-party defendant, as the
7 case may be, the reason therefor being stated in the complaint,
8 counterclaim or third-party complaint.

9 The changes made by this amendatory Act of the 94th General
10 Assembly apply to causes of action filed on or after its
11 effective date.

12 (Source: P.A. 83-707.)

13 (735 ILCS 5/2-405) (from Ch. 110, par. 2-405)

14 Sec. 2-405. Joinder of defendants. (a) Any person may be
15 made a defendant who, either jointly, severally or in the
16 alternative, is alleged to have or claim an interest in the
17 controversy, or in any part thereof, or in the transaction or
18 series of transactions out of which the controversy arose, or
19 whom it is necessary to make a party for the complete
20 determination or settlement of any question involved therein,
21 or against whom a liability is asserted either jointly,
22 severally or in the alternative arising out of the same
23 transaction or series of transactions, regardless of the number
24 of causes of action joined.

25 (b) Where more than one defendant or third party defendant
26 is named, venue must be proper as to each defendant, and it is
27 not sufficient that venue is proper for other defendants or
28 third party defendants joined in the civil action. It is not
29 necessary that each defendant be interested as to all the
30 relief prayed for, or as to every cause of action included in
31 any proceeding against him or her; but the court may make any
32 order that may be just to prevent any defendant from being
33 embarrassed or put to expense by being required to attend any

1 proceedings in which such defendant may have no interest.

2 (c) If the plaintiff is in doubt as to the person from whom
3 he or she is entitled to redress, he or she may join two or more
4 defendants if venue is proper as to each, and state his or her
5 claim against them in the alternative in the same count or
6 plead separate counts in the alternative against different
7 defendants, to the intent that the question which, if any, of
8 the defendants is liable, and to what extent, may be determined
9 as between the parties.

10 (d) Where multiple claims or causes of action are combined
11 in a single lawsuit, venue must be proper as to each separate
12 claim or cause of action.

13 (e) The changes made by this amendatory Act of the 94th
14 General Assembly apply to causes of action filed on or after
15 its effective date.

16 (Source: P.A. 82-280.)

17 (735 ILCS 5/2-105 rep.) (from Ch. 110, par. 2-105)

18 (735 ILCS 5/2-108 rep.) (from Ch. 110, par. 2-108)

19 Section 10. The Code of Civil Procedure is amended by
20 repealing Sections 2-105 and 2-108.

21 Section 15. Severability. If any provision of this
22 amendatory Act of the 94th General Assembly or its application
23 to any person or circumstance is held invalid, the invalidity
24 of that provision or application does not affect other
25 provisions or applications that can be given effect without the
26 invalid provision or application.

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."