

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0212-01
Bill No.: SB 7
Subject: Civil Procedure; Courts; Attorneys; Insurance- General
Type: #Updated
Date: February 20, 2019
To reflect possible reduction in funds turned over to the Tort Victims Compensation Fund

Bill Summary: This proposal modifies provisions of civil procedure regarding joinder and venue.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
#Tort Victims Compensation Fund	(Unknown, could exceed \$1,589,699)	(Unknown, could exceed \$1,589,699)	(Unknown, could exceed \$1,589,699)
#Total Estimated Net Effect on Other State Funds	(Unknown, could exceed \$1,589,699)	(Unknown, could exceed \$1,589,699)	(Unknown, could exceed \$1,589,699)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

#Officials at the **Department of Labor and Industrial Relations**, the **Office of the State Courts Administrator**, the **Office of the Attorney General**, the **Department of Revenue**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Oversight notes that the Department of Labor and Industrial Relations, the Office of the State Courts Administrator, the Office of the Attorney General, the Department of Revenue, the Department of Insurance, Financial Institutions and Professional Registration, the Office of the State Public Defender and the Office of Prosecution Services have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

#**Oversight** notes this proposal may reduce the number of plaintiffs joined in class-action tort cases. As a result, the number of punitive damages awarded may also be reduced in class-action tort lawsuits, which would reduce the payments into the Tort Victims Compensation Fund under §537.675. Over the last ten years of the fund, the high amount awarded was in 2018 of \$8,648,291 and the low amount awarded was in 2016 of \$23,350. The ten year average of the fund from 2008 to 2018 was \$1,589,699. Therefore, Oversight will assume an unknown negative that could exceed \$1,589,699 for this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
#TORT VICTIMS COMPENSATION FUND			
# <u>Loss</u> - reduction in the amount of punitive damages awarded from less plaintiffs joined in class action tort cases	(Unknown, could exceed <u>\$1,589,699</u>)	(Unknown, could exceed <u>\$1,589,699</u>)	(Unknown, could exceed <u>\$1,589,699</u>)
#ESTIMATED NET EFFECT ON THE TORT VICTIMS COMPENSATION FUND	(Unknown, could exceed <u>\$1,589,699</u>)	(Unknown, could exceed <u>\$1,589,699</u>)	(Unknown, could exceed <u>\$1,589,699</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

#FISCAL DESCRIPTION

This act modifies provisions of civil procedure regarding joinder and venue.

#VENUE FOR INSURANCE COMPANIES

This act specifies that an insurance company shall be deemed to reside in the county in which it maintains its registered office. A foreign insurance company without a registered office in any county in Missouri shall be deemed to reside in, and be a resident of, Cole County.

Venue for tort and contract claims in which there is a count against an insurer shall be in the county where the insurer resides, or in the county in which the insured's principal place of residence was located at the time the insurance was issued. Venue shall be determined by these provisions even if the insured's rights or claims under the policy have been assigned or transferred to another party. However, venue shall not be affected by intervention by an insurance company in an action where recovery has been contractually limited to the proceeds of an insurance policy. These provisions shall not apply to actions relating to uninsured or underinsured motorist coverage.

The act also specifies how venue shall be determined in actions against an insurer relating to uninsured or underinsured motorist coverage. If the accident occurred in Missouri, venue shall be in the county in which the accident occurred. If the accident occurred outside of Missouri, venue shall be in the county where the insurer resides, or the Missouri county of the insured's principal place of residence at the time of the accident.

JOINDER

In a civil action where the plaintiff is injured outside of the state, claims arising out of separate purchases of the same product or separate incidents involving the same product shall not be joined regardless of whether the claims arise out of the same transaction, occurrence, or series of transactions or occurrences with a common question of law.

#FISCAL DESCRIPTION (continued)

In addition to current law regarding when plaintiffs and defendants may join in one civil action, this act states that in tort actions two or more plaintiffs may be joined in a single action only if each plaintiff can independently establish proper venue, except that if two or more plaintiffs in such a civil action could establish venue in an adjoining county that has less than 150,000 inhabitants, then the plaintiffs may be joined in such adjoining county. Also, a plaintiff having proper venue in a county with 75,000 or less inhabitants may join in another currently pending action in a proper venue of another county with 75,000 or less inhabitants.

Likewise, two or more defendants may be joined in a single action only if the plaintiff can establish proper venue and personal jurisdiction for each defendant individually. If proper venue or personal jurisdiction cannot be established for each plaintiff or defendant, then the plaintiff or defendant will be deemed misjoined, the claims will be severed from the action, and the claims shall be transferred to a county with proper venue. If there is no county in Missouri in which venue exists, then the claims shall be dismissed without prejudice.

Misjoined parties may be joined only where at least one claim is properly pending in the court and all of the parties have waived their objection to the misjoinder.

VENUE

For the purposes of meeting the venue requirement, the principal place of residence for an individual whose employment conduct with a corporation in at least one county is at issue in the action shall be the corporation's principal place of residence. The principal place of residence for a corporation is the county where the corporation has its registered agent. When all defendants are nonresidents, proper venue in a non-tort action is any county in this state if there is personal jurisdiction over each defendant, independent of each other defendant.

In tort actions where the plaintiff was first injured outside the state of Missouri, venue shall be the, rather than any, county where the defendant corporation has its principal place of residence. If the defendant is an individual, then venue shall be the, rather than any, county where the defendant has his or her principal place of residence, which shall be that of his or her employer corporation if any count alleges conduct in the course of employment.

In tort actions, each plaintiff shall establish that the court where the action is filed is a proper venue against each defendant, independent of the claims brought by any other plaintiff or against any other defendant. Venue cannot be established by joinder or intervention. If the county where the action is filed is not proper venue, the plaintiff shall be transferred to a county where proper venue can be established. If no such county exists, then the claim shall be dismissed without prejudice.

#FISCAL DESCRIPTION (continued)

Currently, a products liability order of dismissal for a defendant whose liability is based solely on his or her status as a seller shall not divest a court of venue or jurisdiction that was proper at the beginning of the action. Further, the defendant seller dismissed in the action shall remain a party to such action for venue and jurisdiction purposes. This act repeals these provisions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

#Department of Labor and Industrial Relations
Office of the State Courts Administrator
Office of the Attorney General
Department of Revenue
Department of Insurance, Financial Institutions and Professional Registration
Office of the State Public Defender
Office of Prosecution Services



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February 20, 2019

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