

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0212-13  
Bill No.: Truly Agreed To and Finally Passed SS No. 2 for SB 7  
Subject: Civil Procedure; Courts; Attorneys; Insurance- General  
Type: Original  
Date: June 4, 2019

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

**FISCAL SUMMARY**

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Tort Victims Compensation Fund (0622)	Unknown Greater than \$100,000 to (Unknown - Greater than \$100,000)	Unknown Greater than \$100,000 to (Unknown - Greater than \$100,000)	Unknown Greater than \$100,000 to (Unknown - Greater than \$100,000)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>Unknown Greater than \$100,000 to (Unknown - Greater than \$100,000)</b>	<b>Unknown Greater than \$100,000 to (Unknown - Greater than \$100,000)</b>	<b>Unknown Greater than \$100,000 to (Unknown - Greater than \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

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

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

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

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

## 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** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

**Oversight** notes that because the bill “expressly adopts the holding of *State ex rel. Johnson & Johnson v. Burlison, SC96704*”, if that ruling conflicts with the bill, it is unclear whether or the bill would control, and therefore, how the bill should be interpreted.

**Oversight** notes according to Section 537.675, “any party receiving a judgment final for purposes of appeal for punitive damages in any case filed in any division of any circuit court of the state of Missouri shall notify the attorney general of the state of Missouri of such award, except for actions claiming improper health care pursuant to chapter 538. The state of Missouri shall have a lien for deposit into the tort victims' compensation fund to the extent of fifty percent of the punitive damage final judgment which shall attach in any such case after deducting attorney's fees and expenses.”

ASSUMPTION (continued)

**Oversight** notes the Tort Victims' Compensation Fund has had court awards of the following amounts over the last ten years:

<b>Fiscal Year</b>	<b>Total Awards</b>
2008	\$36,558.98
2009	\$3,253,480.92
2010	\$3,316,710.05
2011	\$538,742.81
2012	\$144,224.19
2013	\$535,548.19
2014	\$61,172.30
2015	\$439,779.46
2016	\$23,349.62
2017	\$488,831.72
2018	\$8,648,291.13

Due to the uncertainty of the impact of this bill (including the recent Missouri Supreme Court ruling), **Oversight** will reflect a negative unknown to a positive unknown that is greater than \$100,000 on either side for this proposal to the Tort Victims Compensation Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>TORT VICTIMS COMPENSATION FUND</b>			
<u>Savings</u> - in the potential amount of punitive damages awarded	Unknown, greater than \$100,000	Unknown, greater than \$100,000	Unknown, greater than \$100,000
<u>Loss</u> - in the potential amount of punitive damages awarded	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)
<b>ESTIMATED NET EFFECT ON THE TORT VICTIMS COMPENSATION FUND</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>	<b>Unknown greater than \$100,000 to (Unknown greater than \$100,000)</b>
<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 (SECTIONS 375.1800, 375.1803, AND 375.1806)

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.

FISCAL DESCRIPTION (continued)

Venue for claims in which there is a count against an insurer or for actions arising from an insurance contract shall be in the county where the insurer resides, or in the Missouri county where the insured's principal place of residence was located at the time of the insurance contract 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 nor shall they apply to a vexatious refusal to pay claim to collect an amount due under uninsured or underinsured motorist coverage.

For uninsured or underinsured motorists, venue shall be in the county where the accident occurred if the accident occurred in Missouri. If the accident occurred outside of Missouri, venue shall be in the county where the insurer resides, or the Missouri county where the insured's principal place of residence was located at the time of the accident.

JOINER (SECTION 507.040 AND 507.050)

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 or fact.

This act expressly adopts the holding of State ex rel. Johnson & Johnson v. Burlison, No. SC96704, issued on February 13, 2019, as it relates to joinder and venue.

If such terms are just, the court can currently drop or add parties on their own, or under party during any stage of the action; this proposal allows parties to be severed in the same process.

VENUE (SECTIONS 508.010, 508.012, AND 537.762)

For the purposes of meeting the venue requirement, there is a rebuttable presumption that the principal place of residence for an individual is the county of voter registration at the time of the injury. For an individual whose employment conduct with a corporation is at issue in at least one count in the action, the principal place of residence shall be the corporation's principal place of residence. 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.

FISCAL DESCRIPTION (continued)

In tort actions where the plaintiff was first injured in Missouri, venue shall be the county where the plaintiff was first injured by the acts or conduct alleged in the action. In tort actions where the plaintiff was injured outside the state of Missouri and the defendant is an individual, venue for that individual plaintiff shall be the county of the defendant's principal place of residence, which shall be that of his or her employer corporation if any count alleges conduct in the course of employment, or may be in the county of the plaintiff's principal place of residence if located in Missouri on the date the plaintiff was first injured.

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. If denied in error, a denial of a motion to transfer venue pursuant to this act is required to be reversed and no finding of prejudice is required for such reversal.

For the purposes of meeting the venue requirement, an insurance company resides in the county where 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.

At any time prior to the commencement of trial, if a plaintiff or defendant is added, removed, or severed from a petition filed in any Missouri court which would have if originally added, removed, or severed from the initial petition, altered the determination of venue, then the judge shall transfer the case to a proper forum upon application of any party.

Currently, an order of dismissal in a products liability claim 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.

VENUE FOR PENDING CLAIMS (SECTIONS 1 AND 2)

The provisions of this act shall apply to any action filed after February 13, 2019. A Missouri resident plaintiff may continue to trial in the venue as filed if the plaintiff has a case pending in a Missouri court as of February 13, 2019, has proper jurisdiction in Missouri, and such case has or had been set at any time prior to February 13, 2019 for a trial date beginning on or before August 28, 2019.

FISCAL DESCRIPTION (continued)

For actions pending as of February 13, 2019, a plaintiff whose claim has been found to have no Missouri county in which venue exists may proceed in the Missouri venue where such claim was dismissed without prejudice if the court finds that the claim was filed in the Missouri court within the applicable statute of limitations, has no proper venue in Missouri, and cannot be maintained, as of August 28, 2019, in any other state where the claim may be brought because of applicable statutes of limitations and lack of a savings statute or similar law.

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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June 4, 2019

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