

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 220  
By: Bivins  
Economic Development  
3-7-97  
Committee Report (Substituted)

### **DIGEST**

Currently, the Texas common law *forum non conveniens* doctrine, similar to federal and most other states' courts, gives judges broad discretion to dismiss lawsuits if in the interest of justice and convenience of the parties, an alternate jurisdiction is a more appropriate forum for the lawsuit. However, the Texas statutory *forum non conveniens* doctrine requires Texas judges to apply a different set of criteria to lawsuits filed by foreign plaintiffs and residents of other states. It exempts, from the *forum non conveniens* doctrine, claims based on any violation of federal law; exempts claims related to air transportation, railroad companies, and asbestos; requires all defendants to unanimously consent to the jurisdiction of the alternate forum; and requires all defendants to waive all statutes of limitations defenses. S.B. 220 would eliminate these exemptions and give a court jurisdiction over certain claims.

### **PURPOSE**

As proposed, C.S.S.B. 220 authorizes a court in this state, under certain conditions, to decline to exercise jurisdiction under the doctrine of *forum non conveniens*, eliminates certain exemptions to *forum non conveniens*, and gives a court jurisdiction over certain claims.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 71.001, Civil Practice and Remedies Code, to define "just" and make conforming changes.

SECTION 2. Amends Section 71.051, Civil Practice and Remedies Code, to provide that if a court of this state, on written notice of a party, finds that in the interest of justice a claim, rather than an action, to which this section applies would be more properly heard in a forum outside this state, the court may decline to exercise jurisdiction under the doctrine of *forum non conveniens* and may stay or dismiss the claim, rather than action in whole or part, on any conditions that may be just. Prohibits a court from staying or dismissing a claim pursuant to Subsection (a) if the claimant is an individual who was a legal resident of this state at the time the cause of action arose. Provides that an individual is a resident of the state where the individual's residence is, as determined pursuant to Section 1.015, Election Code. Deletes existing Subsections (b)-(i) regarding procedures for dismissal of cases based on *forum non conveniens*. Deletes Subsection (j) regarding the definitions of "legal resident" and "claimant." Provides that this section applies only to actions for personal injury or wrongful death.

SECTION 3. Amends Chapter 71D, Civil Practice and Remedies Code, by adding Section 71.052, as follows:

Sec. 71.052. JURISDICTION OVER CERTAIN CLAIMS. Provides that this section applies only to a civil claim for personal injury or wrongful death in which certain conditions exist. Requires the court, on motion of a defendant, to abate a claim against the defendant for one year under certain conditions. Requires the court, at the end of the abatement, to dismiss the claim against the defendant. Authorizes the court to include the order dismissing the claim in the same order that abates the claim. Prohibits a court from dismissing a claim

under this section against a defendant until the defendant files with the court or with the clerk of the court a specific written stipulation. Sets forth the means by which a defendant is authorized to satisfy Subdivisions (b)(2) and (b)(3). Requires a court, in order to comply with this section in relation to an action that involves both claims that arose in this state and claims that arose outside this state, to consider each claim individually and to sever from the action claims that are the subject of a motion filed under Subsection (b). Requires a court to make certain determinations in regard to the location or locations in which a plaintiff alleges the plaintiff suffered physical harm. Sets forth deadlines regarding the filing of a motion under this section by a defendant. Prohibits a court from abating or dismissing a claim pursuant to this section if, as of January 16, 1997, certain conditions exist. Provides that this section expires September 2, 1998.

SECTION 4. Amends Sections 71.031(a) and (b), Civil Practice and Remedies Code, to authorize the enforcement of an action for damages for the death or personal injury of a citizen of this state, of the United States, or of a foreign country, in the courts of this state, although the wrongful act, neglect, or default causing the death or injury takes place in a foreign state or country, if for a citizen of a foreign state or country, the action is begun in this state within the time provided by the laws of the foreign state or county in which the wrongful act, neglect, or default took place. Makes conforming changes.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Emergency clause.  
Effective date: upon passage.

#### **SUMMARY OF COMMITTEE CHANGES**

Amends SECTION 1 to replace proposed SECTION 1 and amend Section 71.001, Civil Practice and Remedies Code, to define "just."

Amends SECTION 2 to redesignate proposed SECTION 1 as SECTION 2 and add a provision prohibiting a court from staying or dismissing a claim pursuant to Subsection (a) under certain conditions. Provides that this section applies only to actions for personal injury or wrongful death, rather than that this section applies to actions for personal injury or wrongful death.

Amends SECTION 3 to remove proposed SECTION 3 and amend Chapter 71D, Civil Practice and Remedies Code, by adding Section 71.052, providing that this section applies only to certain civil claims. Deletes proposed rulemaking authority to the Texas Supreme Court.

Amends SECTION 4 to remove proposed SECTION 4 and amend Sections 71.031(a) and (b), Civil Practice and Remedies Code, to authorize the enforcement of certain actions.

Amends SECTION 5 to redesignate proposed SECTION 5 to SECTION 6 and set forth certain provisions in regard to the application of this Act.