



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2896

Introduced 1/20/2006, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-101	from Ch. 110, par. 2-101
735 ILCS 5/2-102	from Ch. 110, par. 2-102
735 ILCS 5/2-103	from Ch. 110, par. 2-103
735 ILCS 5/2-104	from Ch. 110, par. 2-104
735 ILCS 5/2-106	from Ch. 110, par. 2-106
735 ILCS 5/2-107	from Ch. 110, par. 2-107
735 ILCS 5/2-404	from Ch. 110, par. 2-404
735 ILCS 5/2-405	from Ch. 110, par. 2-405
735 ILCS 5/2-105 rep.	from Ch. 110, par. 2-105
735 ILCS 5/2-108 rep.	from Ch. 110, par. 2-108

Amends the Code of Civil Procedure. Provides that proper venue shall be: (1) in the county of residence of all defendants (instead of the county of residence of any defendant who is joined in the action); (2) in the county of residence of all plaintiffs at the time of the most significant act or omission or the most significant event or transaction occurred out of which the cause of action arose; (3) in the county in which the most significant act or omission or the most significant event or transaction occurred (instead of the county in which the transaction or some part of the transaction occurred) out of which the cause of action arose; (4) in the county in which the most significant act or omission or the most significant event or transaction occurred out of which the cause of action arose, where there is more than one defendant and the defendants reside in different counties or outside the State; or (5) in the county in which the most significant act or omission or the most significant event or transaction occurred out of which the cause of action arose, where there is more than one plaintiff and the plaintiffs resided in different counties or outside the State at the time of the most significant act or omission or the most significant event or transaction occurred out of which the cause of action arose. Removes language allowing the cause of action to be commenced in any county when all of the defendants are nonresidents of the State. Provides that when venue is based on the defendant's or defendants' residence, and additional defendants or third party defendants are added to the claim or cause of action, venue remains proper only if all defendants and third party defendants are residents of the county where the claim or cause of action is filed. Requires that, if the additional defendants or third party defendants are not residents of the same county, upon motion of any party, the claim or cause of action shall be transferred to the county where the most significant act or omission or the most significant event or transaction occurred out of which the cause of action arose. Provides that, if there is no proper venue in this State for any reason, the claim or cause of action shall be dismissed without prejudice. Lists factors that the court shall consider when determining whether to dismiss a cause of action or transfer the cause of action to another venue. Provides that where more than one plaintiff is joined, each plaintiff shall independently establish proper venue. Makes other changes. Effective immediately.

LRB094 18840 WGH 54258 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Sections 2-101, 2-102, 2-103, 2-104, 2-106, 2-107,
6 2-404, and 2-405 as follows:

7 (735 ILCS 5/2-101) (from Ch. 110, par. 2-101)

8 Sec. 2-101. Generally. Except as otherwise provided in this
9 Act, every action must be commenced: (1) in the county of
10 residence of all defendants; ~~any defendant who is joined in~~
11 ~~good faith and with probable cause for the purpose of obtaining~~
12 ~~a judgment against him or her and not solely for the purpose of~~
13 ~~fixing venue in that county, or~~ (2) in the county of residence
14 of all plaintiffs at the time of the most significant act or
15 omission or the most significant event or transaction occurred
16 out of which the cause of action arose; (3) ~~(2)~~ in the county
17 in which the most significant act or omission or the most
18 significant event or transaction or some part thereof occurred
19 out of which the cause of action arose; (4) in the county in
20 which the most significant act or omission or the most
21 significant event or transaction occurred out of which the
22 cause of action arose, where there is more than one defendant
23 and the defendants reside in different counties or outside this
24 State; or (5) in the county in which the most significant act
25 or omission or the most significant event or transaction
26 occurred out of which the cause of action arose, where there is
27 more than one plaintiff and the plaintiffs resided in different
28 counties or outside the State at the time of the most
29 significant act or omission or the most significant event or
30 transaction occurred out of which the cause of action arose.

31 If a check, draft, money order, or other instrument for the
32 payment of child support payable to or delivered to the State

1 Disbursement Unit established under Section 10-26 of the
2 Illinois Public Aid Code is returned by the bank or depository
3 for any reason, venue for the enforcement of any criminal
4 proceedings or civil cause of action for recovery and attorney
5 fees shall be in the county where the principal office of the
6 State Disbursement Unit is located.

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

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

19 The changes made by this amendatory Act of the 94th General
20 Assembly apply to actions filed on or after its effective date.

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

22 (735 ILCS 5/2-102) (from Ch. 110, par. 2-102)

23 Sec. 2-102. Residence of corporations, voluntary
24 unincorporated associations and partnerships defined. For
25 purposes of venue, the following definitions apply:

26 (a) Any private corporation or railroad or bridge company,
27 organized under the laws of this State, and any foreign
28 corporation authorized to transact business in this State is a
29 resident of the county in which the corporation or company has
30 its principal place of business. ~~any county in which it has its~~
31 ~~registered office or other office or is doing business. A~~
32 ~~foreign corporation not authorized to transact business in this~~
33 ~~State is a nonresident of this State.~~

34 (b) A partnership sued in its firm name is a resident of
35 the county in which the partnership has its principal place of

1 ~~business. any county in which any partner resides or in which~~
2 ~~the partnership has an office or is doing business. A~~
3 ~~partnership sued in its firm name, of which all partners are~~
4 ~~nonresidents of this State and which does not have an office or~~
5 ~~do business in this State, is a nonresident of this State.~~

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

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

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

19 (735 ILCS 5/2-103) (from Ch. 110, par. 2-103)

20 Sec. 2-103. Public corporations - Local actions - ~~Libel~~
21 ~~Insurance companies.~~

22 (a) Actions must be brought against a public, municipal,
23 governmental or quasi-municipal corporation in the county in
24 which its principal office is located or in the county in which
25 the most significant act or omission or the most significant
26 event or transaction ~~the transaction or some part thereof~~
27 occurred out of which the cause of action arose. Except as
28 otherwise provided in Section 7-102 of this Code, if the cause
29 of action is related to an airport owned by a unit of local
30 government or the property or aircraft operations thereof,
31 however, including an action challenging the constitutionality
32 of this amendatory Act of the 93rd General Assembly, the action
33 must be brought in the county in which the unit of local
34 government's principal office is located. Actions to recover
35 damage to real estate which may be overflowed or otherwise

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

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

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

20 (d) Every action against any owner, publisher, editor,
21 author or printer of a newspaper or magazine of general
22 circulation for libel contained in that newspaper or magazine
23 may be commenced only in the county in which the defendant
24 resides or has his, her or its principal office or in which the
25 article was composed or printed, except when the defendant
26 resides or the article was printed without this State, in
27 either of which cases the action may be commenced in any county
28 in which the libel was circulated or published.

29 (e) The changes made by this amendatory Act of the 94th
30 General Assembly apply to actions filed on or after its
31 effective date. ~~Actions against any insurance company~~
32 ~~incorporated under the law of this State or doing business in~~
33 ~~this State may also be brought in any county in which the~~
34 ~~plaintiff or one of the plaintiffs may reside.~~

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

1 (735 ILCS 5/2-104) (from Ch. 110, par. 2-104)

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

4 (a) No order or judgment is void because rendered in the
5 wrong venue, except in case of judgment by confession as
6 provided in subsection (c) of Section 2-1301 of this Act. No
7 action shall abate or be dismissed because commenced in the
8 wrong venue if there is a proper venue to which the cause may
9 be transferred.

10 (b) If venue is improper in the county where the claim or
11 cause of action is filed, upon motion of any party, the claim
12 or cause of action shall be transferred to the county where
13 venue is proper. Where there are multiple claims or causes of
14 action and venue is improper for one or more of the claims or
15 causes of action, upon motion of any party, those claims or
16 causes of action shall be severed and transferred to the county
17 where venue is proper as to each such claim or cause of action.
18 If there is no proper venue for a claim or cause of action in
19 this State for any reason, the claim or cause of action shall
20 be dismissed without prejudice. ~~All objections of improper~~
21 ~~venue are waived by a defendant unless a motion to transfer to~~
22 ~~a proper venue is made by the defendant on or before the date~~
23 ~~upon which he or she is required to appear or within any~~
24 ~~further time that may be granted him or her to answer or move~~
25 ~~with respect to the complaint, except that if a defendant upon~~
26 ~~whose residence venue depends is dismissed upon motion of~~
27 ~~plaintiff, a remaining defendant may promptly move for transfer~~
28 ~~as though the dismissed defendant had not been a party.~~

29 (b-3) When venue is based on the defendant's or defendants'
30 residence, and additional defendants or third party defendants
31 are added to the claim or cause of action, venue remains proper
32 only if all defendants and third party defendants are residents
33 of the county where the claim or cause of action is filed. If
34 the additional defendants or third party defendants are not
35 residents of the same county, upon motion of any party, the
36 claim or cause of action shall be transferred to the county

1 where the most significant act or omission or the most
2 significant event or transaction occurred out of which the
3 cause of action arose. If there is no proper venue in this
4 State for any reason, the claim or cause of action shall be
5 dismissed without prejudice.

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

17 (b-6) If a court, on its own or upon motion by any party,
18 finds that in the interest of justice and for the convenience
19 of the parties and witnesses: (i) a claim or cause of action
20 would be more properly heard in a forum outside this State, the
21 court shall dismiss the claim or cause of action; or (ii) a
22 claim or cause of action would be more properly heard in a
23 different county of proper venue within this State, the court
24 shall order the claim or cause of action transferred to the
25 more proper county.

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

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

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

35 (3) administrative difficulties that arise from
36 congested venues;

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

3 (5) the availability to secure attendance of unwilling
4 witnesses with compulsory process;

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

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

9 (8) the court can reasonably conclude that the
10 plaintiff engaged in forum shopping.

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

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

34 (c) Motions to dismiss or for transfer to a proper venue
35 may be supported and opposed by affidavit. In determining
36 issues of fact raised by affidavits, any competent evidence

1 adduced by the parties shall also be considered. The
2 determination of any issue of fact in connection with a motion
3 to transfer does not constitute a determination of the merits
4 of the case or any aspect thereof.

5 (d) The changes made by this amendatory Act of the 94th
6 General Assembly apply to actions filed on or after its
7 effective date.

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

9 (735 ILCS 5/2-106) (from Ch. 110, par. 2-106)

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

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

25 The changes made by this amendatory Act of the 94th General
26 Assembly apply to actions filed on or after its effective date.

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

28 (735 ILCS 5/2-107) (from Ch. 110, par. 2-107)

29 Sec. 2-107. Costs and expenses of transfer. The costs
30 attending a transfer shall be taxed by the clerk of the court
31 from which the transfer is granted, and, together with the
32 filing fee in the transferee court, shall be paid by plaintiff,
33 unless otherwise ordered by the court. ~~If the court granting~~
34 ~~the transfer finds that venue was fixed by plaintiff in bad~~

1 ~~faith and without probable cause, then it may order the~~
2 ~~reasonable expenses of defendant in attending and obtaining a~~
3 ~~transfer to a proper venue, including a reasonable attorney's~~
4 ~~fee, to be paid by plaintiff.~~ If the costs and expenses are not
5 paid within a reasonable time, the transferring court shall on
6 motion dismiss the action or take such other action as it deems
7 appropriate.

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

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

11 (735 ILCS 5/2-404) (from Ch. 110, par. 2-404)

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

28 If any one who is a necessary plaintiff, counterclaimant or
29 third-party plaintiff declines to join, he or she may be made a
30 defendant, cross defendant or third-party defendant, as the
31 case may be, the reason therefor being stated in the complaint,
32 counterclaim or third-party complaint.

33 The changes made by this amendatory Act of the 94th General
34 Assembly apply to actions filed on or after its effective date.

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

1 (735 ILCS 5/2-405) (from Ch. 110, par. 2-405)

2 Sec. 2-405. Joinder of defendants. (a) Any person may be
3 made a defendant who, either jointly, severally or in the
4 alternative, is alleged to have or claim an interest in the
5 controversy, or in any part thereof, or in the transaction or
6 series of transactions out of which the controversy arose, or
7 whom it is necessary to make a party for the complete
8 determination or settlement of any question involved therein,
9 or against whom a liability is asserted either jointly,
10 severally or in the alternative arising out of the same
11 transaction or series of transactions, regardless of the number
12 of causes of action joined.

13 (b) Where more than one defendant or third party defendant
14 is named, venue must be proper as to each defendant, and it is
15 not sufficient that venue is proper for other defendants or
16 third party defendants joined in the civil action. It is not
17 necessary that each defendant be interested as to all the
18 relief prayed for, or as to every cause of action included in
19 any proceeding against him or her; but the court may make any
20 order that may be just to prevent any defendant from being
21 embarrassed or put to expense by being required to attend any
22 proceedings in which such defendant may have no interest.

23 (c) If the plaintiff is in doubt as to the person from whom
24 he or she is entitled to redress, he or she may join two or more
25 defendants if venue is proper as to each, and state his or her
26 claim against them in the alternative in the same count or
27 plead separate counts in the alternative against different
28 defendants, to the intent that the question which, if any, of
29 the defendants is liable, and to what extent, may be determined
30 as between the parties.

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

34 (e) The changes made by this amendatory Act of the 94th
35 General Assembly apply to actions filed on or after its

1 effective date.

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

3 (735 ILCS 5/2-105 rep.) (from Ch. 110, par. 2-105)

4 (735 ILCS 5/2-108 rep.) (from Ch. 110, par. 2-108)

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.