

CHAPTER 128

COURTS

SENATE BILL 04-180

BY SENATOR(S) Hillman, Anderson, Andrews, Arnold, Chlouber, Dyer, Kester, Cairns, May R., McElhany, and Teck;
also REPRESENTATIVE(S) Cadman, Hefley, Miller, White, Wiens, Crane, Fairbank, Hall, Rose, Spence, Spradley, Welker, and
Williams T.

AN ACT

CONCERNING A MOTION TO DISMISS FOR FORUM NON CONVENIENS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 20 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 10
INJURIES OCCURRING OUT-OF-STATE**

13-20-1001. Short title. THIS PART 10 SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO CITIZENS' ACCESS TO COLORADO COURTS ACT".

13-20-1002. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES:

(a) THE COURTS OF THIS STATE ARE OVERWORKED AND SUBJECT TO OVERLOADED DOCKETS;

(b) SECTION 6 OF ARTICLE II OF THE COLORADO CONSTITUTION GUARANTEES CITIZENS OF THIS STATE ACCESS TO THE COURTS OF THIS STATE; AND

(c) CASES FILED BY NONRESIDENTS OF COLORADO AND HAVING NO MEANINGFUL RELATIONSHIP TO THIS STATE ARE CLOGGING THE DOCKETS OF THE COURTS AND CAUSING DELAYS IN CASES FILED BY RESIDENTS OF COLORADO.

(2) THE GENERAL ASSEMBLY FINDS THAT THE PURPOSES OF THIS PART 10 ARE:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) TO ENSURE ACCESS OF COLORADO CITIZENS TO THE COURTS OF COLORADO;
AND

(b) TO AVOID BURDENING THE COURTS OF THIS STATE WITH CASES INVOLVING INJURIES SUFFERED OUTSIDE OF THE STATE THAT MAY BE RESOLVED ELSEWHERE.

13-20-1003. Definitions. AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "ALTERNATIVE FORUM" MEANS A FUNCTIONING GOVERNMENTAL DIVISION WITH JUDICIAL POWERS THAT MAY PROVIDE REDRESS FOR A CLAIM, WITHOUT REGARD TO WHETHER THE REDRESS PROVIDED IS EQUIVALENT TO THE REDRESS PROVIDED UNDER COLORADO LAW, AND THAT MAY EXERCISE JURISDICTION OVER THE PARTIES.

(b) AN ALTERNATIVE FORUM SHALL STILL BE AN ALTERNATIVE FORUM IF THE STATUTE OF LIMITATIONS FOR THAT FORUM HAS EXPIRED.

(2) "DISCOVERY" MEANS THE PROCEDURES DESCRIBED IN CHAPTER 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(3) "RESIDENT" MEANS A RESIDENT OF THE STATE OF COLORADO OR A PERSON WHO INTENDS TO RETURN TO COLORADO DESPITE ESTABLISHING TEMPORARY RESIDENCY ELSEWHERE OR DESPITE A TEMPORARY ABSENCE FROM COLORADO, WITHOUT REGARD TO THE PERSON'S COUNTRY OF CITIZENSHIP OR NATIONAL ORIGIN. "RESIDENT" DOES NOT MEAN A PERSON WHO ADOPTS A RESIDENCE IN COLORADO IN WHOLE OR IN PART TO AVOID THE APPLICATION OF THIS PART 10.

13-20-1004. Forum non conveniens. (1) IN ANY ACTION OTHERWISE PROPERLY FILED IN A COURT OF THIS STATE, A MOTION TO DISMISS WITHOUT PREJUDICE UNDER THE DOCTRINE OF FORUM NON CONVENIENS SHALL BE GRANTED IF:

(a) THE CLAIMANT OR CLAIMANTS NAMED IN THE MOTION ARE NOT RESIDENTS OF THE STATE OF COLORADO;

(b) AN ALTERNATIVE FORUM EXISTS;

(c) THE INJURY OR DAMAGE ALLEGED TO HAVE BEEN SUFFERED OCCURRED OUTSIDE OF THE STATE OF COLORADO;

(d) A SUBSTANTIAL PORTION OF THE WITNESSES AND EVIDENCE IS OUTSIDE OF THE STATE OF COLORADO; AND

(e) THERE IS A SIGNIFICANT POSSIBILITY THAT COLORADO LAW WILL NOT APPLY TO SOME OR ALL OF THE CLAIMS.

(2) IN ANY ACTION OTHERWISE PROPERLY FILED IN A COURT OF THIS STATE, A MOTION TO DISMISS WITHOUT PREJUDICE UNDER THE DOCTRINE OF FORUM NON CONVENIENS MAY BE GRANTED IF THE COURT FINDS THAT THE FACTOR SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IS PRESENT AND THAT AT LEAST ONE OR MORE BUT FEWER THAN ALL OF THE FACTORS SPECIFIED IN PARAGRAPHS (b) TO (e) OF SUBSECTION (1) OF THIS SECTION ARE PRESENT, AND BASED UPON SUCH

FACTORS, THE COURT FINDS THAT IN THE INTEREST OF JUDICIAL ECONOMY OR FOR THE CONVENIENCE OF THE PARTIES, A PARTY'S CLAIM OR ACTION SHOULD BE HEARD IN A FORUM OUTSIDE OF COLORADO.

(3) IN DETERMINING WHETHER THE FACTORS SPECIFIED IN SUBSECTION (1) OF THIS SECTION ARE PRESENT, THE COURT MAY CONSIDER EVIDENCE OUTSIDE OF THE PLEADINGS, BUT NO FORMAL DISCOVERY SHALL BE PERMITTED.

(4) (a) THE COURT MAY SET CONDITIONS FOR DISMISSING A CLAIM OR ACTION UNDER THIS SECTION AS THE INTERESTS OF JUSTICE MAY REQUIRE.

(b) IF THE STATUTE OF LIMITATIONS IN THE ALTERNATIVE FORUM EXPIRES WHILE THE CLAIM IS PENDING IN A COURT IN COLORADO, THE COURT SHALL GRANT A DISMISSAL UNDER THIS SECTION ONLY IF EACH DEFENDANT WAIVES ALL DEFENSES THAT THE STATUTE OF LIMITATION IN THE ALTERNATIVE FORUM HAS EXPIRED.

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to cases filed on or after the applicable effective date of this act.

Approved: April 8, 2004