# SENATE BILL 342

Introduced by Pinsoneault, et al.

2/09	Introduced
2/09	Referred to Judiciary
2/09	First Reading
2/21	Hearing
2/23	Committee ReportBill Passed as
	Amended
2/26	2nd Reading Passed
2/27	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Labor & Employment
	Relations
3/20	Hearing
3/20	Tabled in Committee

LC 1690/01

ENATE BILL NO. 342 1 INTRODUCED BY 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PLAINTIFF TO Δ CHOOSE THE PLACE OF TRIAL FOR A TORT ACTION WHEN NONE OF THE 5 DEFENDANTS ARE STATE RESIDENTS; ALLOWING A CHANGE OF VENUE 6 IN ANY ACTION INVOLVING THE FEDERAL EMPLOYERS' LIABILITY 7 ACT; CODIFYING THE COMMON-LAW DOCTRINE OF FORUM NON 8 CONVENIENS; AND AMENDING SECTIONS 25-2-122 AND 25-2-201, 9 MCA." 10

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12

NEW SECTION. Section 1. Forum non conveniens. For the 13 convenience of the parties and witnesses and in the interest 14 of justice, a district court may dismiss any civil action 15 with leave to file the action in a more appropriate 16 jurisdiction. This section applies to all civil actions 17 brought pursuant to state or federal common or statutory 18 law, including the Federal Employers' Liability Act. 19

Section 2. Section 25-2-122, MCA, is amended to read: 20 \*25-2-122. Torts. The proper place of trial for a tort 21 22 action is:

(1) the county in which the defendants, or any of them, 23 reside at the commencement of the action; or 24

(2) any county the plaintiff designates in the 25

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complaint when none of the defendants are state residents;

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(2)(3) the county where the tort was committed. If the 3 tort is interrelated with and dependent upon a claim for breach of contract, the tort was committed, for the purpose 6 of determining the proper place of trial, in the county 7 where the contract was to be performed."

Section 3. Section 25-2-201, MCA, is amended to read:

"25-2-201. When change of venue required. The In all

10 civil actions, including actions brought under state or

11 federal common or statutory law and the Federal Employers'

12 Liability Act, the court or judge must shall, on motion, 13 change the place of trial in the following cases:

14 (1) when the county designated in the complaint is not 15 the proper county;

16 (2) when there is reason to believe that an impartial

17 trial cannot be had therein in the county;

18 (3) when the convenience of witnesses and the ends of 19 justice would be promoted by the change."

NEW SECTION. Section 4. Codification instruction.

21 [Section 1] is intended to be codified as an integral part

22 of Title 25, chapter 2, part 2, and the provisions of Title

23 25, chapter 2, part 2, apply to [section 1].

-End-

INTRODUCED BILL -2-

#### 52nd Legislature

## SB 0342/02

APPROVED BY COMMITTEE ON JUDICIARY

1	SENATE BILL NO. 342
2	INTRODUCED BY PINSONEAULT, J. RICE, HALLIGAN, MESSMORE,
3	VAN VALKENBURG, MAZUREK
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PLAINTIFF TO
6	CHOOSE THE PLACE OF TRIAL FOR A TORT ACTION WHEN NONE OF THE
7	DEFENDANTS ARE STATE RESIDENTS; ALLOWING-A-CHANGEOFVENUE
8	inanyactioninvolvingthe-pederal-employers1-liability
9	ACT; CODIFYING THE COMMON-LAW DOCTRINE OF FORUM NON
10	CONVENIENS FOR FEDERAL EMPLOYERS' LIABILITY ACT CASES IN
11	WHICH THE PLAINTIFF IS A NONRESIDENT AND THE TORT DID NOT
12	OCCUR IN THE STATE OF MONTANA; AND AMENDING SECTION
13	25-2-122 AND25-2-201, MCA; AND PROVIDING AN IMMEDIATE
14	EFFECTIVE DATE."
15	
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	NEW SECTION. Section 1. Forum non conveniens. For the
18	convenience of the parties and witnesses and in the interest
19	of justice, a district court may dismiss any civil action
20	with leave to file the action in a more appropriate
21	jurisdiction IN FEDERAL EMPLOYERS' LIABILITY ACT CASES IN
22	WHICH THE PLAINTIFF IS A NONRESIDENT AND THE TORT DID NOT
23	OCCUR IN THE STATE OF MONTANA. This-section-appliestoall
24	civil-actions-brought-pursuant-to-state-or-federal-common-or
25	statutorylaw;includingthe-Federal-Employersbiability

SB 0342/02

SB 342

1	Act <del>.</del>
2	Section 2. Section 25-2-122, MCA, is amended to read:
3	*25-2-122. Torts. The proper place of trial for a tort
4	action is:
5	(1) the county in which the defendants, or any of them,
6	reside at the commencement of the action; or
7	(2) any county the plaintiff designates in the
8	complaint when none of the defendants are state residents;
9	<u>10</u>
10	(2) the county where the tort was committed. If the
11	tort is interrelated with and dependent upon a claim for
12	breach of contract, the tort was committed, for the purpose
13	of determining the proper place of trial, in the county
14	where the contract was to be performed."
15	Section-3Section-25-2-2017-MCA,-is-amended-to-read:
16	#25-2-201Whenchangeofvenue-requiredThe <u>In-all</u>
17	<u>civil-actions;-includingactionsbroughtunderstateor</u>
18	federalcommonor-statutory-law-and-the-Pederal-Employers1
19	<u>biability-Act;-the</u> -court-or-judgemust <u>shall</u> ;onmotion;
20	change-the-place-of-trial-in-the-following-cases:
21	<pre>(i)whenthe-county-designated-in-the-complaint-is-not</pre>
22	the-proper-county;
23	(2)when-there-is-reason-to-believe-thatanimpartial
24	trial-cannot-be-had-therein <u>in-the-county</u> ;
25	t3)whentheconvenience-of-witnesses-and-the-ends-of
	SECOND READING

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## SB 0342/02

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1	justice-would-be-promoted-by-the-change-=
2	NEW SECTION. Section 3. Codification instruction.
3	[Section 1] is intended to be codified as an integral part
4	of Title 25, chapter 2, part 2, and the provisions of Title
5	25, chapter 2, part 2, apply to [section 1].
6	NEW SECTION. SECTION 4. SEVERABILITY. IF A PART OF
7	[THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
8	FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
9	ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
10	REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
11	SEVERABLE FROM THE INVALID APPLICATIONS.
12	NEW SECTION. SECTION 5. EFFECTIVE DATE. [THIS ACT] IS
13	EFFECTIVE ON PASSAGE AND APPROVAL.

-End-.

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### SB 0342/02

SB 342

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2	INTRODUCED BY PINSONEAULT, J. RICE, HALLIGAN, MESSMORE,	2	Section 2. Section 25-2-122, MCA, is amended to read:
3	VAN VALKENBURG, MAZUREK	3	"25-2-122. Torts. The proper place of trial for a tort
4		4	action is:
5	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PLAINTIFF TO	5	(1) the county in which the defendants, or any of them,
6	CHOOSE THE PLACE OF TRIAL FOR A TORT ACTION WHEN NONE OF THE	6	reside at the commencement of the action; or
7	DEFENDANTS ARE STATE RESIDENTS; ALLOWING-A-CHANGEOPVENUE	7	(2) any county the plaintiff designates in the
8	ŧnanyactioninvolvingthe-pederal-employers1liability	8	complaint when none of the defendants are state residents;
9	ACT7 CODIFYING THE COMMON-LAW DOCTRINE OF FORUM NON	9	or
10	CONVENIENS FOR FEDERAL EMPLOYERS' LIABILITY ACT CASES IN	10	$\frac{1}{(2)}$ (3) the county where the tort was committed. If the
11	WHICH THE PLAINTIFF IS A NONRESIDENT AND THE TORT DID NOT	11	tort is interrelated with and dependent upon a claim for
12	OCCUR IN THE STATE OF MONTANA; AND AMENDING SECTION	12	breach of contract, the tort was committed, for the purpose
13	25-2-122 AND25-2-201, MCA; AND PROVIDING AN IMMEDIATE	13	of determining the proper place of trial, in the county
14	EFFECTIVE DATE."	14	where the contract was to be performed."
15		15	Section-37Section-25-2-2017-MEA7-is-amended-to-read:
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	16	#25-2-201Whenchangeofvenue-requiredThe in-all
17	NEW SECTION. Section 1. Porum non conveniens. For the	17	civil-actionsincludingactionsbroughtunderstateor
18	convenience of the parties and witnesses and in the interest	18	federalcommonor-statutory-law-and-the-Pederal-Employers*
19	of justice, a district court may dismiss any civil action	19	biability-Act7-the-court-or-judgemust shall7-onmotion7
20	with leave to file the action in a more appropriate	20	change-the-place-of-trial-in-the-following-cases:
21	jurisdiction IN FEDERAL EMPLOYERS' LIABILITY ACT CASES IN	21	(1)whenthe-county-designated-in-the-complaint-is-not
22	WHICH THE PLAINTIFF IS A NONRESIDENT AND THE TORT DID NOT	22	the-proper-county;
23	OCCUR IN THE STATE OF MONTANA. This-section-appliestoall	23	{2}when-there-is-reason-to-believe-thatanimpartial
24	civil-actions-brought-pursuant-to-state-or-federal-common-or	24	trial-cannot-be-had-therein <u>in-the-county</u> +
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-End-.

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