

CCS SS SCS SB 230 -- COURT PROCEEDINGS

ABLE ACCOUNTS

This bill provides that the assets held in an ABLE account shall not be considered the property of a conservatorship estate, with the exception of accounts in the charge and custody of a public administrator (Section 209.625, RSMo).

VENUE FOR GUARDIANSHIP AND CONSERVATORSHIP

The bill clarifies that proper venue in cases of appointment of a guardian or conservator of a minor or incapacitated or disabled person shall be the county where the person is domiciled. Placement by a court, fiduciary, or agency for evaluation, treatment, or residential care shall not constitute a choice of domicile; however, for the purpose of determining domicile, the court may consider the desire or intent of the alleged incapacitated or disabled person.

If the person has no domicile in the state, domicile shall be the county where the minor or incapacitated or disabled person has a significant connection, as specified in the bill. If venue for guardianship and conservatorship is in different counties, then venue shall be in the county of the guardianship.

Repeals current provisions regarding the commencement of proceedings in more than one county and venue when transferring certain cases involving the appointment of a successor guardian or conservator (Sections 472.010, 475.035, and 475.115).

VENUE

This bill specifies changes to venue in tort and non-tort cases.

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. However, when at least one count addresses conduct alleged to be in the course and scope of employment with a corporation, the principal place of residence shall be the corporation's principal place of residence.

In non-tort actions, when all defendants are nonresidents proper venue is any county in this state that has personal jurisdiction over each defendant, independent of each other defendant.

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 where the defendant has his or her 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 containing the plaintiff's principal place of residence on the date the plaintiff was first injured, if the plaintiff's principal place of residence was in the state of Missouri.

If the county where the action is filed is not a proper venue, the plaintiff shall be transferred to a county where proper venue can be established. If no such county exists, the claim shall be dismissed without prejudice. If denied in error, a denial of a motion to transfer venue pursuant to this bill 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 (Section 508.010).

PUBLIC DEFENDERS

This bill removes a provision requiring the Director of the Public Defender's Office to prepare a plan to establish district offices, which would coincide with existing judicial circuits (Sections 476.001 and 600.042).