

AMENDMENT PROPOSED TO

Am #1

HOUSE BILL NO. 13

By Rep. Gunn

On line 70 strike the period at the end of line 70
and add the following language after the word "action":

AMEND TITLE (to conform) (as follows):

51 **SECTION 1.** Section 11-11-3, Mississippi Code of 1972, is
52 amended as follows:

53 11-11-3. (1) (a) (i) Civil actions of which the circuit
54 court has original jurisdiction shall be commenced in the county
55 where the defendant resides, or, if a corporation, in the county
56 of its principal place of business, or in the county where a
57 substantial alleged act or omission occurred or where a
58 substantial event that caused the injury occurred.

59 (ii) Civil actions alleging a defective product
60 may also be commenced in the county where the plaintiff obtained
61 the product.

62 (b) If venue in a civil action against a nonresident
63 defendant cannot be asserted under paragraph (a) of this
64 subsection (1), a civil action against a nonresident may * * * be
65 commenced in the county where the plaintiff resides or is
66 domiciled.

67 (2) In any civil action where more than one (1) plaintiff is
68 joined, each plaintiff shall independently establish proper venue;
69 it is not sufficient that venue is proper for any other plaintiff
70 joined in the civil action.

71 (3) Notwithstanding subsection (1) of this section, any
72 action against a licensed physician, osteopath, dentist, nurse,
73 nurse-practitioner, physician assistant, psychologist, pharmacist,
74 podiatrist, optometrist, chiropractor, institution for the aged or
75 infirm, hospital or licensed pharmacy, including any legal entity
76 which may be liable for their acts or omissions, for malpractice,
77 negligence, error, omission, mistake, breach of standard of care
78 or the unauthorized rendering of professional services shall be
79 brought only in the county in which the alleged act or omission
80 occurred.

81 (4) (a) If a court of this state, on written motion of a
82 party, finds that in the interest of justice and for the
83 convenience of the parties and witnesses a claim or action would

84 be more properly heard in a forum outside this state or in a
85 different county of proper venue within this state, the court
86 shall decline to adjudicate the matter under the doctrine of forum
87 non conveniens. As to a claim or action that would be more
88 properly heard in a forum outside this state, the court shall
89 dismiss the claim or action. As to a claim or action that would
90 be more properly heard in a different county of proper venue
91 within this state, the venue shall be transferred to the
92 appropriate county. In determining whether to grant a motion to
93 dismiss an action or to transfer venue under the doctrine of forum
94 non conveniens, the court shall give consideration to the
95 following factors:

- 96 (i) Relative ease of access to sources of proof;
97 (ii) Availability and cost of compulsory process
98 for attendance of unwilling witnesses;
99 (iii) Possibility of viewing of the premises, if
100 viewing would be appropriate to the action;
101 (iv) Unnecessary expense or trouble to the
102 defendant not necessary to the plaintiff's own right to pursue his
103 remedy;
104 (v) Administrative difficulties for the forum
105 courts;
106 (vi) Existence of local interests in deciding the
107 case at home; and
108 (vii) The traditional deference given to a
109 plaintiff's choice of forum.

110 (b) A court may not dismiss a claim under this
111 subsection until the defendant files with the court or with the
112 clerk of the court a written stipulation that, with respect to a
113 new action on the claim commenced by the plaintiff, all the
114 defendants waive the right to assert a statute of limitations
115 defense in all other states of the United States in which the
116 claim was not barred by limitations at the time the claim was

117 filed in this state as necessary to effect a tolling of the
118 limitations periods in those states beginning on the date the
119 claim was filed in this state and ending on the date the claim is
120 dismissed.

121 **SECTION 2.** Section 11-1-60, Mississippi Code of 1972, is
122 amended as follows:

123 11-1-60. (1) For the purposes of this section, the
124 following words and phrases shall have the meanings ascribed
125 herein unless the context clearly requires otherwise:

126 (a) "Noneconomic damages" means subjective,
127 nonpecuniary damages arising from death, pain, suffering,
128 inconvenience, mental anguish, worry, emotional distress, loss of
129 society and companionship, loss of consortium, bystander injury,
130 physical impairment, disfigurement, injury to reputation,
131 humiliation, embarrassment, * * * other nonpecuniary damages, and
132 any other theory of damages such as fear of loss, illness or
133 injury. The term "noneconomic damages" shall not include * * *
134 punitive or exemplary damages.

135 (b) "Actual economic damages" means objectively
136 verifiable pecuniary damages arising from medical expenses and
137 medical care, rehabilitation services, custodial care,
138 disabilities, loss of earnings and earning capacity, loss of
139 income, burial costs, loss of use of property, costs of repair or
140 replacement of property, costs of obtaining substitute domestic
141 services, loss of employment, loss of business or employment
142 opportunities, and other objectively verifiable monetary losses.

143 * * *

144 (2) Nothing contained in subsection (1) of this section
145 shall be construed as creating a cause of action or as setting
146 forth elements of or types of damages that are or are not
147 recoverable in any type of cause of action.

148 (3) (a) Regardless of the number of parties against whom an
149 action is brought or the number of separate claims or actions