

CHAPTER 189

(HB 804)

AN ACT relating to venue and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 452.010 is amended to read as follows:

- (1) The parties to any civil action in a Circuit Court may, by consent, have an order in or out of court for its removal to any other Circuit Court.
- (2) A party to any civil action triable by a jury in a Circuit Court may have a change of venue when it appears that, because of the undue influence of his **or her** adversary or the odium that attends the party applying or his **or her** cause of action or defense, or because of the circumstances or nature of the case he **or she** cannot have a fair and impartial trial in the county.
- (3) ***A party to an action meeting the definition in subsection (1) of Section 5 of this Act shall have a change of venue upon application to the court.***

➔Section 2. KRS 452.030 is amended to read as follows:

- (1) Application for a change of venue ***under subsection (2) of Section 1 of this Act*** shall be made by verified motion of the party seeking a change to the court, in which the reasons and grounds for the change shall be stated. On any motion for change of venue ***made under this subsection*** the court shall have a hearing for the presentation of evidence and arguments for and against the motion. Either party may subpoena witnesses for the hearing on the motion. The granting of a change of venue ***under this subsection*** shall be within the sound discretion of the court, and shall be granted by the court when justice so requires.
- (2) ***Application for a change of venue under subsection (3) of Section 1 of this Act shall be made by petition of the party seeking a change to the court. If the court finds that the action meets the definition in subsection (1) of Section 5 of this Act, the court shall grant the petition and order the transfer of the action pursuant to Section 3 of this Act.***

➔Section 3. KRS 452.050 is amended to read as follows:

A change of venue shall be made to the Circuit Court of ~~a [the adjacent]~~ county, ***in an adjacent judicial circuit***, most convenient to the parties, their witnesses, and their attorneys, and to which there is no valid objection. The order of change of venue may be made subject to any equitable terms and conditions that safety to the rights of the parties requires and the court, in its discretion, prescribes.

➔Section 4. KRS 452.090 is amended to read as follows:

The court to which the action is removed shall have the same power as to its trial and final disposition as the court from which it was removed, ***including consideration of forum non conveniens, disqualification of judges, and other matters of its jurisdiction.***

➔Section 5. KRS 452.005 is amended to read as follows:

- (1) Except as provided in KRS 5.005 and 286.12-135, and notwithstanding any other statute to the contrary, the venue for any civil action that:
 - (a) Challenges the constitutionality of a Kentucky:
 1. Statute;
 2. Executive order;
 3. Administrative regulation; or
 4. Order of any cabinet, program cabinet, or department established under KRS Chapter 12;
 - (b) Includes a claim for declaratory judgment or injunctive relief; and
 - (c) Is brought individually, jointly, or severally against:

1. Any state official or state officer in his or her official capacity, including any public servant as defined in KRS 11A.010;
2. Any body, subdivision, caucus, committee, or member of the General Assembly, or the Legislative Research Commission; or
3. Any agency of the state as defined in KRS 11A.010;

shall be as provided in this section **and Sections 1 and 2 of this Act.**

- (2) (a) A plaintiff who is a resident of Kentucky shall file a complaint or petition in the office of the Circuit Court clerk in the county where the plaintiff resides. If more than one (1) plaintiff is a party to the action, the complaint or petition may be filed in any county where any plaintiff resides.
- (b) A plaintiff who is not a resident of Kentucky shall file a complaint or petition in the Franklin Circuit Court.
- (3) The plaintiff shall certify in the complaint or petition filed under this section that a copy of the complaint or petition has been served upon the Attorney General before or at the time of filing, and the Attorney General shall be entitled to be heard.
- ~~(4) (a) Any plaintiff or defendant to a civil action under subsection (1) of this section may seek a change of venue by filing a notice of transfer in the Circuit Court in which the action was originally filed no later than thirty (30) days after the return of service on the defendant. The Attorney General, as an intervening defendant, may seek a change of venue no later than thirty (30) days from intervention.~~
- ~~(b) The notice shall be transmitted forthwith to the clerk of the Supreme Court who shall direct the transfer of the action to a different Circuit Court chosen by the clerk of the Supreme Court through random selection.~~
- ~~(c) After randomly selecting the Circuit Court to which the action shall be transferred, the clerk of the Supreme Court shall notify the Circuit Court clerk of the county in which the action was originally filed of the selection and the Circuit Court shall immediately transfer the action and the record of the action to the Circuit Court designated by the clerk of the Supreme Court.~~
- ~~(5)}~~ In any appeal to the Kentucky Court of Appeals or Supreme Court, or the federal appellate courts in any forum that involves the constitutional validity of a statute, executive order, administrative regulation, or order of any cabinet, program cabinet, or department established under KRS Chapter 12, the Attorney General shall, before the filing of the appellant's brief, be served with a copy of the pleading, paper, or other document that initiates the appeal in the appellate forum. This notice shall specify the challenged statute, executive order, administrative regulation, or order of a cabinet, program cabinet, or department established under KRS Chapter 12, and the nature of the alleged constitutional defect.
- ~~(5){(6)}~~ The Attorney General shall notify the Legislative Research Commission of:
 - (a) The receipt of a complaint or petition and the nature of any proceedings involving the validity of any statute or regulation, or order of a cabinet, program cabinet, or department established under KRS Chapter 12; and
 - (b) The entering of a final judgment in those proceedings, if the Attorney General is a party to the action.
- ~~(6){(7)}~~ To protect the rights of the citizens of the Commonwealth of Kentucky as guaranteed by the Constitution of Kentucky, it is the intent of the General Assembly that any action brought or pursued under this section be given priority and prosecuted in an expeditious manner.
- ~~(7){(8)}~~ Pursuant to Sections 43 and 231 of the Constitution of Kentucky, members of the General Assembly, organizations within the legislative branch of state government, or officers or employees of the legislative branch shall not be made parties to any action challenging the constitutionality or validity of any statute or regulation, without the consent of the member, organization, or officer or employee.
- ~~(8){(9)}~~ Nothing in this section is intended to waive, nor shall it be interpreted or applied to waive or abrogate in any way, any legislative immunity or legislative privilege of any body, subdivision, caucus, committee, or member of the General Assembly, or the Legislative Research Commission, as provided by the Constitution of Kentucky, KRS 418.075, any other statute of this Commonwealth, or federal or state common law.

➔Section 6. Whereas, because of the importance of confidence in the courts and of safeguarding against the perception that judicial decisions or verdicts could be affected by undue influence of a party or the odium that attends

a party or a cause of action or defense, or that because of the circumstances or nature of a case a party, cannot have a fair and impartial trial in a particular county, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden April 12, 2024.