



## Vote NO on House Bill 5044

The Illinois Association of Defense Trial Counsel, an organization whose members are committed to protecting and improving civil justice in Illinois, opposes HB 5044 because forum *non conveniens* allows courts to manage docket congestion, reduce litigation costs, and ensure that local controversies are decided locally by citizens of the county impacted by the litigation. In addition, the abolition of intrastate forum *non conveniens* as proposed by HB 5044 is likely unconstitutional.

The United States Supreme Court has explained that the doctrine of forum *non conveniens* benefits litigants and the public by preventing unnecessary expense during litigation, providing an instrument to address court congestion, and avoiding the imposition of jury duty on citizens of a community with no relation to the litigation. *Gulf Oil Corp. v. Gilbert*, 330 US. 501, 508-09 (1947). The Illinois Supreme Court has recognized the doctrine of intrastate forum *non conveniens* in order to promote fairness in the litigation process. *Torres v. Walsh*, 98 Ill. 2d 338, 350-51 (1983).

The Illinois Supreme Court has further explained that intrastate forum *non conveniens* transfer “is founded in considerations of fundamental fairness and sensible and effective judicial administration” and part of “the court’s discretionary power to dismiss a case within its jurisdiction when a more appropriate forum is available.” *Peile v. Skelgas, Inc.*, 163 Ill. 2d 323, 332-33 (1994) (declining to abandon intrastate forum *non conveniens* because it “continues to serve a valuable policy that the courts of this State are sufficiently equipped to effectuate.”).

Under a forum *non conveniens* analysis, a plaintiff’s statutory right to choose a forum is not disturbed unless the balance of public and private interest factors strongly favors transfer to another county. *Torres*, 98 Ill. 2d at 351. A court of competent jurisdiction should decline jurisdiction of a case only when another forum within the state “can better serve the convenience of the parties and ends of justice.” *Fennell v. Illinois Cent. R. Co.*, 2012 IL 113812, ¶ 12-13. This doctrine curbs instances of forum shopping, a strategy that the Illinois Supreme Court described as “contrary to the purposes behind the venue rules.” *Dawdy v. Union Pacific R.R. Co.*, 207 Ill. 2d 167, 174 (2003).

The passage of HB 5044 would likely flood the courts of Cook, Madison, and St. Clair counties with filings of cases with little or no connection to those jurisdictions and concomitantly, the appellate courts that serve those circuits. The burden on the systems of those counties and the citizens thereof would be immense in both costs and jury service.

As an example, without intrastate forum *non conveniens*, a Pulaski County resident sued after an automobile accident that happened blocks away from home would have no recourse to prevent the lawsuit and trial from proceeding more than 350 miles away in Cook County. A fact as simple as another vehicle in the accident being owned by a Cook County resident would make that a real possibility.

Even setting aside the many benefits that make it imprudent to eliminate intrastate forum *non conveniens*, Ill. Const. 1970, art. VI, § 16 provides that “[g]eneral administrative and supervisory authority over all courts is vested in the Supreme Court \*\*\*.” The Illinois Supreme Court has held in *Torres*, 98 Ill. 2d at 350-51 that the power to transfer cases is vested in the judiciary by the Illinois Constitution. Codifying these powers granted the Court, it has enacted Supreme Court Rule 187 that governs transfer under forum *non conveniens* and Supreme Court Rule 384 that allows the Court to consolidate cases that are filed in different judicial circuits. “[I]f a statute conflicts with a rule that involves a matter within the judicial authority, the statute must yield to the rule.” *Peile*, 163 Ill. 2d at 334.

Illinois trial judges weighing the various factors set forth by the Illinois Supreme Court have applied the doctrine of forum *non conveniens* citizens in a manner that serves the entirety of the civil justice system. HB 5044 would upset that balance. For all of these reasons, the civil justice system would be ill served by the elimination of interstate forum *non conveniens* and HB 5044 should be defeated.