

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 1016

BY: MILES-LaGRANGE

AS INTRODUCED

AN ACT RELATING TO COURTS; AUTHORIZING CERTAIN COURTS TO TRANSFER CERTAIN ACTIONS OR PARTS OF ACTIONS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR TRANSFERS BY COURTS HAVING JURISDICTION AND BY COURTS NOT HAVING JURISDICTION; STATING REASONS FOR TRANSFERS; PROVIDING FOR TRANSFER ORDERS AND FOR CONTENTS; REQUIRING CERTAIN NOTICE; DECLARING TIME WHEN TRANSFER BECOMES EFFECTIVE; REQUIRING TRANSMITTAL OF RECORD; REQUIRING COMPLETION OF CERTAIN PENDING MATTERS; PROVIDING FOR RETURN OF CERTAIN ORDERS; LIMITING APPELLATE REVIEW; AUTHORIZING ACCEPTANCE OF CERTAIN TRANSFERRED ACTIONS; PROVIDING FOR RECEIPT OF TRANSFER BY COURTS HAVING JURISDICTION AND BY COURTS NOT HAVING JURISDICTION; AUTHORIZING REFUSAL OF CERTAIN TRANSFERS; PROVIDING FOR RECEIPT ORDERS AND FOR CONTENTS; AUTHORIZING REQUESTS FOR CERTAIN RECORDS; AUTHORIZING DEVIATION FROM CERTAIN ORDERS; PROHIBITING DISMISSAL BECAUSE OF STATUTE OF LIMITATIONS UNDER CERTAIN CIRCUMSTANCES; PROVIDING PRESUMPTION FOR DATE OF FILING OF CERTAIN MATTERS; PROVIDING FOR PROCEDURES IN TRANSFERRING COURT; PROVIDING FOR CONTINUATION OF CERTAIN ORDERS; AUTHORIZING VACATION OR AMENDMENT OF CERTAIN

ORDERS; AUTHORIZING APPEARANCE OF COUNSEL;
AUTHORIZING RETURN OF CERTAIN ORDERS; AUTHORIZING
FURTHER TRANSFERS; PROVIDING FOR APPEALS; REQUIRING
UNIFORM CONSTRUCTION; PROVIDING SHORT TITLE;
PROVIDING FOR CODIFICATION; AND PROVIDING AN
EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

PART I. TRANSFER

SECTION 1. NEW LAW A new section of law to be codified
in
the Oklahoma Statutes as Section 2101 of Title 20, unless there is
created a duplication in numbering, reads as follows:

POWER TO TRANSFER. A district court of this state may transfer
an action or any part of an action to a court not of this state
pursuant to this act.

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2102 of Title 20, unless there
is created a duplication in numbering, reads as follows:

TRANSFER BY COURT HAVING JURISDICTION. A district court of this
state that has jurisdiction of the subject matter of an action and
the parties may transfer all or any part of the action to a court
not of this state that consents to the transfer and has jurisdiction
of the matters transferred.

SECTION 3. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2103 of Title 20, unless there
is created a duplication in numbering, reads as follows:

TRANSFER BY COURT LACKING JURISDICTION. A district court of
this state that lacks jurisdiction of the subject matter of an

action or part of an action or that lacks jurisdiction of a party may transfer all or any part of the action to a court not of this state that consents to the transfer and has jurisdiction of the matters and parties transferred.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2104 of Title 20, unless there is created a duplication in numbering, reads as follows:

REASONS FOR TRANSFER. A transfer may be ordered to serve the fair, effective, and efficient administration of justice and the convenience of the parties and witnesses. The court shall consider all relevant factors, including the interest of each plaintiff in selecting a forum and the public interest in securing a single litigation and disposition of related matters.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2105 of Title 20, unless there is created a duplication in numbering, reads as follows:

TRANSFER ORDER. A transfer may be ordered on motion of a party or the court's own motion after notice and opportunity to be heard. A transfer order must state the reasons for transfer and may specify terms of transfer. The court shall give notice of the transfer order to the parties. A party or the court may file the transfer order in the receiving court.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2106 of Title 20, unless there is created a duplication in numbering, reads as follows:

WHEN TRANSFER EFFECTIVE. A transfer takes effect when an order accepting transfer is filed in the transferring court.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2107 of Title 20, unless there is created a duplication in numbering, reads as follows:

TRANSMITTING RECORD. After notice of an order accepting a transfer is filed in the transferring court, the court shall send relevant portions of the record to the receiving court.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2108 of Title 20, unless there is created a duplication in numbering, reads as follows:

PENDING PROCEDURES. A procedure pending at the time of transfer must be completed according to the rules of the transferring court, measuring applicable time limits as if the procedure has been initiated ten (10) days after the day the transfer took effect, unless otherwise ordered by the transferring court or by the receiving court.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2109 of Title 20, unless there is created a duplication in numbering, reads as follows:

RETURN. The transferring court shall accept the return of any matter ordered returned by the receiving court pursuant to the terms of the transfer order or for lack of jurisdiction in the receiving court.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2110 of Title 20, unless there is created a duplication in numbering, reads as follows:

APPELLATE REVIEW. An order granting or refusing transfer is reviewable only by extraordinary writ or permissive interlocutory appeal. Rulings not reviewed before a transfer takes effect are not reviewable in this state except as to matters returned or transferred back.

PART II. RECEIPT

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2201 of Title 20, unless there is created a duplication in numbering, reads as follows:

RECEIPT. A court of this state may accept transfer of an action or any part of an action pursuant to this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2202 of Title 20, unless there is created a duplication in numbering, reads as follows:

RECEIPT BY COURT HAVING JURISDICTION. A court that has jurisdiction of the subject matter and parties may accept a transfer whether or not the transferring court had jurisdiction of the subject matter or parties.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2203 of Title 20, unless there is created a duplication in numbering, reads as follows:

RECEIPT BY COURT LACKING PERSONAL JURISDICTION. A receiving court that has jurisdiction of the subject matter may assert jurisdiction over a party that is subject to the jurisdiction of the transferring court.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2204 of Title 20, unless there is created a duplication in numbering, reads as follows:

RECEIPT REFUSED. A receiving court may refuse to accept transfer for any reason, but shall state the reasons for the refusal.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2205 of Title 20, unless there is created a duplication in numbering, reads as follows:

RECEIPT ORDER. A party may move for an order accepting or refusing a transfer. The receiving court shall enter an order accepting a transfer unless within thirty (30) days after the motion was made the court enters an order refusing the transfer or directing further proceedings to determine whether to accept the transfer.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2206 of Title 20, unless there is created a duplication in numbering, reads as follows:

NOTICE OF RECEIPT. The receiving court shall give all parties notice of the order accepting or refusing transfer. A party or the court may file the order in the transferring court. The transfer takes effect when an order accepting transfer is filed in the transferring court.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2207 of Title 20, unless there is created a duplication in numbering, reads as follows:

REQUEST FOR RECORD. The receiving court may request the transferring court to send relevant portions of the record to aid in deciding whether to accept transfer or to supplement the record sent by the transferring court.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2208 of Title 20, unless there is created a duplication in numbering, reads as follows:

TERMS OF TRANSFER. The receiving court for good cause may depart from the terms specified in the transfer order.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2209 of Title 20, unless there is created a duplication in numbering, reads as follows:

STATUTE OF LIMITATIONS. If the transferring court had jurisdiction of the subject matter and parties, the receiving court may not dismiss because of a statute of limitations a claim that would not be dismissed on that ground by the transferring court.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2210 of Title 20, unless there is created a duplication in numbering, reads as follows:

DATE OF FILING. The receiving court shall treat the matters transferred as if they were initially filed on the date of filing in the transferring court.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2211 of Title 20, unless there is created a duplication in numbering, reads as follows:

TRANSFERRING COURT PROCEDURES. A procedure completed in the transferring court before transfer has the same effect in the receiving court as in the transferring court unless the receiving court orders otherwise. A procedure pending at the time of transfer must be completed according to the rules of the transferring court, measuring applicable time limits as if the procedure had been initiated ten (10) days after the transfer took effect, unless otherwise ordered by the transferring or receiving court.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2212 of Title 20, unless there is created a duplication in numbering, reads as follows:

OUTSTANDING ORDERS. In injunction or other order in effect at the time of transfer remains in effect after transfer according to its terms until dissolved or modified by the receiving court.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2213 of Title 20, unless there is created a duplication in numbering, reads as follows:

PAST ORDERS. The receiving court may vacate or amend an order made by the transferring court as if it had entered the order.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2214 of Title 20, unless there is created a duplication in numbering, reads as follows:

APPEARANCE OF COUNSEL. Ordinarily the receiving court shall permit counsel of record in the transferring court to appear. The receiving court may require local counsel to appear only if necessary to ensure orderly disposition of the transferred matters.

The law that would be applied by the transferring court governs contracts between clients and counsel who appeared in the transferring court and any ground advanced to disqualify counsel who appeared in the transferring court.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2215 of Title 20, unless there is created a duplication in numbering, reads as follows:

RETURN FOR LACK OF JURISDICTION. If the receiving court determines after accepting transfer that it lacks jurisdiction of a part of the matters transferred by a court that had jurisdiction, it may return that matter and any additional matters to the transferring court.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2216 of Title 20, unless there is created a duplication in numbering, reads as follows:

RETURN PURSUANT TO TRANSFER ORDER. The receiving court may return any transferred matter to the transferring court pursuant to the terms of the transfer order.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2217 of Title 20, unless there is created a duplication in numbering, reads as follows:

NOTICE AND EFFECTIVE DATE OF RETURN. A receiving court shall give notice of a return order to all parties. A party or the receiving court may file the return order in the transferring court. A return takes effect when a return order is filed in the transferring court.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2218 of Title 20, unless there is created a duplication in numbering, reads as follows:

FURTHER TRANSFER. The receiving court may transfer a transferred matter to the transferring court or to another court pursuant to this act.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2219 of Title 20, unless there is created a duplication in numbering, reads as follows:

APPEALS. An order granting transfer is not reviewable in the receiving state by appeal or otherwise. An order accepting or refusing to accept transfer, or granting or refusing to grant return, is reviewable in the receiving state only by extraordinary writ or permissive interlocutory appeal at the time the order is entered. Review may be had in the receiving state of all other rulings made by the receiving court and of all rulings made by the transferring court not reviewed before the transfer took effect.

PART III. GENERAL

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2301 of Title 20, unless there is created a duplication in numbering, reads as follows:

UNIFORMITY OF APPLICATION AND CONSTRUCTION. This act must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the act among states enacting it.

SECTION 31. SHORT TITLE. This act shall be known and may be cited as the "Transfer of Litigation Act".

SECTION 32. This act shall become effective September 1, 1992.

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