

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 802 (Senator Kelley, *et al.*)  
Judicial Proceedings

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Courts and Judicial Proceedings - Venue - Health Care

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This bill specifies that the venue for an action due to an injury arising out of or resulting from the rendering of, or failure to render, health care is the county in which the alleged negligent act or omission occurred. If the alleged negligent act or omission occurred in more than one county, the plaintiff may bring the action in any of those counties, subject to any other party's right to seek a change of venue in accordance with the Maryland Rules.

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Fiscal Summary

**State Effect:** None. The change is procedural in nature and does not directly affect governmental finances.

**Local Effect:** Any impact on the circuit courts' caseload can be handled with existing resources. Revenues are not affected.

**Small Business Effect:** None.

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Analysis

**Current Law:** Under the Courts and Judicial Proceedings Article, a civil action must be brought in the county where the defendant (1) resides; (2) carries on a regular business; (3) is employed; or (4) habitually engages in a vocation. A corporation may also be sued where it maintains its principal offices in the State. If there is more than one defendant, and there is no single venue applicable, all of the defendants may be sued in a county in which any one of them could be sued or in the county where the cause of action arose. This rule does not apply to specified causes of action, including actions relating to real property, guardianship, and adoption.

For some causes of action, additional venues are specifically permitted. For example, tort actions based on negligence may be brought in the county where the cause of action arose.

**Background:** An appellate decision relating to change of venue in a health care malpractice case recently received press attention. In December 2016, the Maryland Court of Special Appeals reversed a trial court's decision granting a change of venue in a health care malpractice case. In an unreported decision, the Court of Special Appeals held that the Baltimore City Circuit Court had abused its discretion in granting a motion to transfer that was filed by the appellees, which included the University of Maryland Medical System (UMMS). The appellants, Brandon Kerrigan and his family, had filed their action in Baltimore City, where UMMS had its principal place of business, and where Brandon had received much of his treatment. However, the appellees filed a motion for a change of venue to Talbot County, citing, among other factors, that the Kerrigan family lived in Talbot County and that several of the practitioners and medical institutions that had initially treated Brandon (and were also named in the lawsuit) were located in Talbot County.

The Court of Special Appeals agreed that either venue was appropriate (Baltimore City or Talbot County) but found that the Baltimore City Circuit Court had given too much deference to, or had improperly considered, certain factors in making its decision to grant the motion to transfer, such as the fact that the Kerrigan family lived in Talbot County and would need to drive past the Talbot County Circuit Court to get to the Baltimore City Circuit Court. The Court of Special Appeals found that, in actuality, the number and weight of reasons for each venue were almost equal; thus, the appellees had not met their burden to show that Talbot County was a more appropriate venue. Consequently, the court held that the Baltimore City Circuit Court had abused its discretion in granting the motion to transfer.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 604 (Delegate Sydnor, *et al.*) - Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Health Care Alternative Dispute Resolution Office; *The Daily Record*; Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2017  
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