

By Senators Dyer, Diaz-Balart, Silver, Saunders, Holzendorf, Brown-Waite, Clary and Forman

14-774A-99

1 A bill to be entitled
2 An act relating to comparative fault; amending
3 s. 768.81, F.S.; limiting further the
4 application of joint and several liability;
5 providing an exception; providing an effective
6 date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Subsections (3) and (6) of section 768.81,
11 Florida Statutes, are amended to read:

12 768.81 Comparative fault.--

13 (3) APPORTIONMENT OF DAMAGES.--In cases to which this
14 section applies, the court shall enter judgment against each
15 party liable on the basis of such party's percentage of fault
16 and not on the basis of the doctrine of joint and several
17 liability; provided that with respect to any party whose
18 percentage of fault equals or exceeds that of a particular
19 claimant and whose fault exceeds 20 percent, the court shall
20 enter judgment with respect to economic damages against that
21 party on the basis of the doctrine of joint and several
22 liability.

23 (6) Notwithstanding anything in law to the contrary,
24 in an action for damages for personal injury or wrongful death
25 arising out of medical malpractice, whether in contract or
26 tort, when an apportionment of damages pursuant to this
27 section is attributed to a teaching hospital as defined in s.
28 408.07, the court shall enter judgment against the teaching
29 hospital on the basis of such party's percentage of fault and
30 not on the basis of the doctrine of joint and several
31 liability. In all actions for damages for personal injury or

1 wrongful death arising out of medical malpractice, whether in
2 contract or tort, with respect to a party that is not a
3 teaching hospital and whose percentage of fault equals or
4 exceeds that of a particular claimant, the court shall enter
5 judgment with respect to economic damages against that party
6 on the basis of the doctrine of joint and several liability
7 regardless of that party's percentage of fault.

8 Section 2. This act shall take effect October 1, 1999.

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11 SENATE SUMMARY

12 Provides that in the apportionment of damages under the
13 doctrine of comparative fault, the court shall enter
14 judgment for economic damages against a party whose
15 percentage of fault equals or exceeds that of a claimant
16 and whose fault exceeds 20 percent on the basis of the
17 doctrine of joint and several liability. Provides that in
18 all actions for damages for personal injury or wrongful
19 death arising out of medical malpractice, with respect to
20 a party that is not a teaching hospital and whose
21 percentage of fault equals or exceeds that of a
22 particular claimant, the court shall enter judgment with
23 respect to economic damages against that party on the
24 basis of the doctrine of joint and several liability
25 regardless of that party's percentage of fault.
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