

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Ambler offered the following:

Amendment (with title amendment)

Between lines 1149 and 1150, insert:

Section 29. Section 766.185, Florida Statutes, is created to read:

766.185 Apportionment of fault in medical negligence actions.--

(1) In an action for damages for personal injury or wrongful death arising out of medical negligence, whether in contract or tort, when a defendant asserts an affirmative defense that one or more nonparties is liable, in whole or in part, for damages arising out of medical negligence, such defendant must join the nonparties into the action by means of a third-party complaint asserting a cause of action for comparative fault in medical negligence against the nonparties,

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27 except with respect to a nonparty who meets one of the following
28 criteria:

29 (a) The nonparty has entered into a settlement with each
30 of the plaintiffs;

31 (b) The nonparty has complete immunity from suit;

32 (c) The statute of limitations involving the nonparty
33 expired prior to filing of the presuit notice of intent to
34 initiate medical malpractice litigation; or

35 (d) The nonparty cannot be otherwise legally joined to the
36 suit.

37 (2) If the defendant has reasonable grounds to believe
38 during the presuit investigation that one or more nonparties are
39 liable, in whole or in part, for damages arising out of medical
40 negligence and that such nonparties would be joinable into the
41 action under this section, the defendant must notify the
42 claimant in writing of the identity and reasonable grounds for
43 inclusions of such nonparty in the action within 10 days after
44 obtaining such information.

45 (3) If the defendant fails to comply with the provisions
46 set forth in this section, then the defendant shall be estopped
47 from asserting the negligence of the nonparty who should have
48 otherwise been joined into the action.

49 (4) Any third party joined into the action under the
50 provisions of this section shall be liable to the plaintiff for
51 any damages adjudicated by the trier of fact subject to the
52 provisions of this chapter.

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===== T I T L E A M E N D M E N T =====

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56 Remove line(s) 78, and insert:
57 medical negligence; creating s. 766.185, F.S.; requiring joinder
58 of certain parties; prohibiting the assignment of fault to such
59 parties if not joined; amending s. 766.202, F.S.; providing