

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 line(s) 1815 and 1816,

Insert:

(4)(a) When a defendant knows of a person who is not named as a defendant in the presuit notice of intent to initiate medical malpractice litigation and proposes that the nonparty is potentially liable, in whole or in part, for the injury alleged in the notice, the defendant must disclose the identity of the nonparty to the claimant within 30 days after service of the presuit notice of intent to initiate medical malpractice litigation.

(b) If a defendant learns that a person who is not named as a defendant in the presuit notice of intent to initiate

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28 medical malpractice litigation is potentially liable, in whole  
29 or in part, for the injury alleged in the notice, the defendant  
30 must disclose the identity of the nonparty to the claimant  
31 within 10 days of learning of the facts supporting the basis for  
32 such potential liability.

33 Section 36. Section 766.1067, Florida Statutes, is created  
34 to read:

35 766.1067 Apportionment of fault in medical negligence  
36 actions.--

37 (1) In an action for damages for personal injury or  
38 wrongful death arising out of medical negligence, whether in  
39 contract or tort, when a defendant asserts an affirmative  
40 defense that one or more nonparties are liable, in whole or in  
41 part, for damages arising out of medical negligence, such  
42 defendant must join the nonparties into the action by means of a  
43 third-party complaint asserting a cause of action for  
44 comparative fault in medical negligence against the nonparties,  
45 except with respect to a nonparty who meets one of the following  
46 criteria:

47 (a) The nonparty has entered into a settlement with each  
48 of the plaintiffs;

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

50 (c) The statute of limitations involving the nonparty  
51 expired prior to filing of the presuit notice of intent to  
52 initiate medical malpractice litigation; or

53 (d) The nonparty cannot be otherwise legally joined to the  
54 suit.

55 (2) If the defendant has reasonable grounds to believe  
56 during the presuit investigation that one or more nonparties are

Amendment No. (for drafter's use only)

57 liable, in whole or in part, for damages arising out of medical  
58 negligence and that such nonparties would be joinable into the  
59 action under this section, the defendant must notify the  
60 claimant in writing of the identity and reasonable grounds for  
61 inclusions of such nonparty in the action within 10 days after  
62 obtaining such information.

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

67 (4) Any third party joined into the action under the  
68 provisions of this section shall be liable to the plaintiff for  
69 any damages adjudicated by the trier of fact subject to the  
70 provisions of this chapter.

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

74 Remove line 147, and insert:

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76 certain experts be made available for deposition; providing  
77 conditions under which a defendant must identify a potentially  
78 liable nonparty; creating s. 766.1067, F.S.; requiring joinder  
79 of certain parties; prohibiting the assignment of fault to such  
80 parties if not joined; creating