

By Senator Ring

32-867-07

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A bill to be entitled

An act relating to comparative fault; amending s. 768.81, F.S.; requiring apportionment of total fault only among parties to an action who may be held legally liable; providing an effective date.

WHEREAS, frivolous accusations against nonparties not only deny justice to victims, but also add unnecessarily to the expense and complexity of legal actions, NOW, THEREFORE,

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

Section 1. Subsection (3) of section 768.81, Florida Statutes, is amended to read:

768.81 Comparative fault.--

(3) APPORTIONMENT OF DAMAGES.--In cases to which this section applies, the trier of fact shall apportion the total fault for the occurrence giving rise to the legal proceeding only among the claimant and those defendants to the action who may be held legally liable, and the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability.

~~(a) In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to~~

1 ~~amendment any time before trial in accordance with the Florida~~
2 ~~Rules of Civil Procedure.~~

3 ~~(b) In order to allocate any or all fault to a~~
4 ~~nonparty and include the named or unnamed nonparty on the~~
5 ~~verdict form for purposes of apportioning damages, a defendant~~
6 ~~must prove at trial, by a preponderance of the evidence, the~~
7 ~~fault of the nonparty in causing the plaintiff's injuries.~~

8 Section 2. This act shall take effect July 1, 2007.

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11 SENATE SUMMARY

12 Requires apportionment of total fault only among parties
13 to an action who may be held legally liable.

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