

1                                   A bill to be entitled  
 2           An act relating to apportionment of damages; providing  
 3           findings and intent; amending s. 768.81, F.S.; requiring  
 4           division of total fault for an occurrence only among the  
 5           claimant and those who may be held legally liable;  
 6           deleting provisions providing for allocation of fault to  
 7           nonparties; providing an effective date.

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

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11           Section 1. Findings and intent.--The Legislature finds  
 12 that frivolous accusations against nonparties deny justice to  
 13 victims and add unnecessarily to the expense and complexity of  
 14 legal actions. The intent of the Legislature is to curtail the  
 15 incidence of such accusations by requiring the trier of fact to  
 16 apportion the total fault for the occurrence giving rise to a  
 17 legal proceeding only among the claimant and those defendants to  
 18 the action who may be held legally liable.

19           Section 2. Subsection (3) of section 768.81, Florida  
 20 Statutes, is amended to read:

21           768.81 Comparative fault.--

22           (3) APPORTIONMENT OF DAMAGES.--In cases to which this  
 23 section applies, the trier of fact shall apportion the total  
 24 fault for the occurrence giving rise to the legal proceeding  
 25 only among the claimant and those defendants to the action who  
 26 may be held legally liable, and the court shall enter judgment  
 27 against each party liable on the basis of such party's

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28 | percentage of fault and not on the basis of the doctrine of  
29 | joint and several liability.

30 | ~~(a) In order to allocate any or all fault to a nonparty, a~~  
31 | ~~defendant must affirmatively plead the fault of a nonparty and,~~  
32 | ~~absent a showing of good cause, identify the nonparty, if known,~~  
33 | ~~or describe the nonparty as specifically as practicable, either~~  
34 | ~~by motion or in the initial responsive pleading when defenses~~  
35 | ~~are first presented, subject to amendment any time before trial~~  
36 | ~~in accordance with the Florida Rules of Civil Procedure.~~

37 | ~~(b) In order to allocate any or all fault to a nonparty~~  
38 | ~~and include the named or unnamed nonparty on the verdict form~~  
39 | ~~for purposes of apportioning damages, a defendant must prove at~~  
40 | ~~trial, by a preponderance of the evidence, the fault of the~~  
41 | ~~nonparty in causing the plaintiff's injuries.~~

42 | Section 3. This act shall take effect July 1, 2007.