



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5200

Introduced 2/8/2012, by Rep. Jil Tracy

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1117	from Ch. 110, par. 2-1117
740 ILCS 100/3	from Ch. 70, par. 303
740 ILCS 100/4 rep.	

Amends the Code of Civil Procedure by deleting certain provisions concerning joint and several liability and adding language providing, except as otherwise provided, that: in specified types of actions, each defendant found liable is liable for only that percentage of the plaintiff's damages that represents the fault chargeable to that defendant in the comparison of the plaintiff's fault with the fault of all tortfeasors whose fault was a proximate cause of the death, injury, loss, or damage for which recovery is sought; and, except when the plaintiff is barred from recovering damages because the plaintiff's fault is more than 50% of the proximate cause of the injury or damage for which recovery is sought, the plaintiff is barred from recovering damages from a defendant in excess of the amount of damages obtained by applying the percentage of fault of that defendant to the amount of the plaintiff's damages and no defendant is jointly and severally liable for plaintiff's damages. Deletes or repeals all of the following provisions of the Joint Tortfeasor Contribution Act: if the obligation of one or more joint tortfeasors is uncollectable, the remaining tortfeasors shall share the unpaid portions of the uncollectable obligation in accordance with their pro rata liability; if equity requires, the collective liability of some as a group shall constitute a single share; and a plaintiff's right to recover the full amount of his or her judgment from any one or more defendants subject to liability in tort for the same injury to person or property, or for wrongful death, is not affected by the provisions of the Act.

LRB097 18919 AJ0 64157 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 2-1117 as follows:

6 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

7 Sec. 2-1117. Liability ~~Joint liability~~. Except as provided  
8 in Section 2-1118, in actions on account of bodily injury or  
9 death or physical damage to property, based on negligence, or  
10 product liability based on strict tort liability in which  
11 recovery is predicated upon fault, each defendant found liable,  
12 as determined by the trier of fact, is liable for only that  
13 percentage of the plaintiff's damages, as determined by the  
14 trier of fact, that represents the fault chargeable to that  
15 defendant in the comparison of the plaintiff's fault with the  
16 fault of all tortfeasors whose fault was a proximate cause of  
17 the death, injury, loss, or damage for which recovery is  
18 sought. Except when the plaintiff is barred from recovering  
19 damages because the trier of fact finds that the fault on the  
20 part of the plaintiff is more than 50% of the proximate cause  
21 of the injury or damage for which recovery is sought, the  
22 plaintiff shall be barred from recovering damages from a  
23 defendant that is in excess of the amount of damages obtained

1 by applying the percentage of fault of that defendant to the  
2 amount of the plaintiff's damages, as determined by the trier  
3 of fact. No defendant shall be jointly and severally liable for  
4 plaintiff's damages., ~~all defendants found liable are jointly~~  
5 ~~and severally liable for plaintiff's past and future medical~~  
6 ~~and medically related expenses. Any defendant whose fault, as~~  
7 ~~determined by the trier of fact, is less than 25% of the total~~  
8 ~~fault attributable to the plaintiff, the defendants sued by the~~  
9 ~~plaintiff, and any third party defendant except the plaintiff's~~  
10 ~~employer, shall be severally liable for all other damages. Any~~  
11 ~~defendant whose fault, as determined by the trier of fact, is~~  
12 ~~25% or greater of the total fault attributable to the~~  
13 ~~plaintiff, the defendants sued by the plaintiff, and any third~~  
14 ~~party defendants except the plaintiff's employer, shall be~~  
15 ~~jointly and severally liable for all other damages.~~

16 (Source: P.A. 93-10, eff. 6-4-03; 93-12, eff. 6-4-03.)

17 Section 10. The Joint Tortfeasor Contribution Act is  
18 amended by changing Section 3 as follows:

19 (740 ILCS 100/3) (from Ch. 70, par. 303)

20 Sec. 3. Amount of Contribution. The pro rata share of each  
21 tortfeasor shall be determined in accordance with his relative  
22 culpability. However, no person shall be required to contribute  
23 to one seeking contribution an amount greater than his pro rata  
24 share ~~unless the obligation of one or more of the joint~~

1 ~~tortfeasors is uncollectable. In that event, the remaining~~  
2 ~~tortfeasors shall share the unpaid portions of the~~  
3 ~~uncollectable obligation in accordance with their pro rata~~  
4 ~~liability.~~

5 ~~If equity requires, the collective liability of some as a~~  
6 ~~group shall constitute a single share.~~

7 (Source: P.A. 81-601.)

8 (740 ILCS 100/4 rep.)

9 Section 15. The Joint Tortfeasor Contribution Act is  
10 amended by repealing Section 4.