



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1974

Introduced 2/10/2011, by Sen. Kirk W. Dillard

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1117  
740 ILCS 100/3  
740 ILCS 100/4 rep.

from Ch. 110, par. 2-1117  
from Ch. 70, par. 303

Amends the Code of Civil Procedure. Deletes language regarding joint and several liability in actions on account of bodily injury or death or physical damage to property, based on negligence, or product liability based on strict tort liability, and adds language providing that: in actions for bodily injury or death or physical damage to property based on negligence or product liability based on strict tort liability in which recovery is predicated upon fault, each defendant found liable is liable for only that percentage of the plaintiff's damages that represents the contributory 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; except when the plaintiff is barred from recovering damages because the plaintiff's contributory 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 contributing fault of that defendant to the amount of the plaintiff's damages; and no defendant is jointly and severally liable for plaintiff's damages. Amends the Joint Tortfeasor Contribution Act by deleting and repealing certain provisions regarding contribution if the obligation of one or more of the joint tortfeasors is uncollectable and a plaintiff's right to recover the full amount of his judgment from any one or more defendants.

LRB097 07272 AJ0 47381 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 contributory fault  
15 chargeable to that defendant in the comparison of the  
16 plaintiff's fault with the fault of all tortfeasors whose fault  
17 was a proximate cause of the death, injury, loss, or damage for  
18 which recovery is sought. Except when the plaintiff is barred  
19 from recovering damages because the trier of fact finds that  
20 the contributory fault on the part of the plaintiff is more  
21 than 50% of the proximate cause of the injury or damage for  
22 which recovery is sought, the plaintiff shall be barred from  
23 recovering damages from a defendant that is in excess of the

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

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

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

20 (740 ILCS 100/3) (from Ch. 70, par. 303)

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

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

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

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

9 (740 ILCS 100/4 rep.)

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