

House Bill 1791

By: Representatives Parrish of the 102nd, Boggs of the 145th, Dodson of the 84th, Post 1, Walker of the 115th, Childers of the 13th, Post 1, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to
2 damages in tort actions, so as to change certain provisions regarding joint trespassers; to
3 change certain provisions regarding apportionment of damages; to provide for related
4 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to damages in tort
9 actions, is amended by striking Code Section 51-12-31, relating to recovery against joint
10 trespassers, and inserting in its place a new Code Section 51-12-31 to read as follows:

11 "51-12-31.

12 Except as provided in Code Section 51-12-33, where an action is brought jointly against
13 several ~~trespassers~~ tort-feasors, the plaintiff may recover damages for ~~the greatest injury~~
14 ~~done~~ an injury caused by any of the defendants against ~~all of them~~ only the defendant or
15 defendants liable for the injury pursuant to subsection (b) of Code Section 51-12-33. In its
16 verdict, the jury may specify the particular damages to be recovered of each defendant.
17 Judgment in such a case must be entered severally."

18

19 **SECTION 2.**

20 Said chapter is further amended by striking Code Section 51-12-33, relating to apportionment
21 of damages according to fault, and inserting in its place a new Code Section 51-12-33 to read
22 as follows:

23 "51-12-33.

24 (a) ~~Where an action is brought against more than one person for injury to person or~~
25 ~~property and the plaintiff is himself to some degree responsible for the injury or damages~~
26 ~~claimed, the trier of fact, in its determination of the total amount of damages to be awarded,~~

1 if any, may apportion its award of damages among the persons who are liable and whose
 2 degree of fault is greater than that of the injured party according to the degree of fault of
 3 each person. Damages, if apportioned by the trier of fact as provided in this Code section,
 4 shall be the liability of each person against whom they are awarded, shall not be a joint
 5 liability among the persons liable, and shall not be subject to any right of contribution.

6 Where an action is brought against one or more persons for injury to person or property and
 7 the plaintiff is to some degree responsible for the injury or damages claimed, the trier of
 8 fact, in its determination of the total amount of damages to be awarded, if any, shall
 9 determine the percentage of negligence of the plaintiff and shall reduce the amount of
 10 damages otherwise awarded to the plaintiff in proportion to his or her negligence compared
 11 with that of the person or persons liable for the injury or damages claimed.

12 (b) Subsection (a) of this Code section shall not affect venue provisions regarding joint
 13 actions. Where an action is brought against more than one person for injury to person or
 14 property, the trier of fact, in its determination of the total amount of damages to be
 15 awarded, if any, shall after a reduction of damages pursuant to subsection (a) of this Code
 16 section, if any, apportion its award of damages among the persons liable according to the
 17 degree of fault of each person. If a person is found to be liable for 40 percent or more of
 18 the injury, such person shall be jointly and severally liable for all injuries caused by all
 19 persons liable, but shall have a right of contribution against the other defendants found to
 20 be liable. If a person is found to be liable for less than 40 percent of the injury, such person
 21 shall only be liable for his or her portion of the award of damages assigned by the trier of
 22 fact, shall not be jointly liable with any other person liable, and shall be subject to
 23 contribution up to that person's portion of the total liability.

24 (c) Notwithstanding the provisions of this Code section and notwithstanding whether there
 25 is one defendant or multiple defendants, the plaintiff shall not be entitled to receive any
 26 damages if the plaintiff is 50 percent or more responsible for the injury or damages
 27 claimed.

28 (d) This Code section shall not affect venue provisions regarding joint actions."

29 SECTION 3.

30 This Act shall become effective upon its approval by the Governor or upon its becoming law
 31 without such approval. This Act shall apply only to causes of action arising on or after the
 32 effective date of this Act. Any cause of action arising prior to that date shall continue to be
 33 governed by the law in effect at the time such cause of action arose.

34 SECTION 4.

35 All laws and parts of laws in conflict with this Act are repealed.