

ADOPTED

1 Senator Balfour of the 9th offered the following amendment:

2 Amend the committee substitute to HB 1028 (LC 14 8858S) by striking from line 10 of page
3 1 the words "and allocation of liability in medical malpractice actions".

4 By adding after the semicolon on line 10 of page 1 the following:

5 "to amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
6 change provisions relating to the allocation of liability and recovery of damages in tort
7 actions;"

8 By inserting a quotation mark at the end of line 6 of page 16 and striking all matter on lines
9 7 through 27 of page 16.

10 By inserting after Section 1 a new Section 1.1 to read as follows:

11 **"SECTION 1.1.**

12 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by striking
13 Code Section 51-12-31, relating to recovery against joint trespassers, and Code Section
14 51-12-33, relating to apportionment of damages, and inserting in their respective places new
15 Code Sections to read as follows:

16 '51-12-31.

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

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,~~
27 ~~if any, may apportion its award of damages among the persons who are liable and whose~~
28 ~~degree of fault is greater than that of the injured party according to the degree of fault of~~

1 each person. Damages, if apportioned by the trier of fact as provided in this Code section,
2 shall be the liability of each person against whom they are awarded, shall not be a joint
3 liability among the persons liable, and shall not be subject to any right of contribution.

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

10 (b) ~~Subsection (a) of this Code section shall not affect venue provisions regarding joint~~
11 ~~actions. Where an action is brought against more than one person for injury to person or~~
12 ~~property, the trier of fact, in its determination of the total amount of damages to be~~
13 ~~awarded, if any, shall after a reduction of damages pursuant to subsection (a) of this Code~~
14 ~~section, if any, apportion its award of damages among the persons who are liable according~~
15 ~~to the degree of fault of each person. Damages apportioned by the trier of fact as provided~~
16 ~~in this Code section shall be the liability of each person against whom they are awarded,~~
17 ~~shall not be a joint liability among the persons liable, and shall not be subject to any right~~
18 ~~of contribution.~~

19 (c) ~~This Code section shall apply only to causes of action arising on or after July 1, 1987.~~
20 ~~Notwithstanding the provisions of this Code section and any other provisions of law which~~
21 ~~might be construed to the contrary, the plaintiff shall not be entitled to receive any damages~~
22 ~~if the plaintiff is 50 percent or more responsible for the injury or damages claimed.~~

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