

ADOPTED

1 Senators Meyer von Bremen of the 12th and Brown of the 26th offered the following
2 amendment:

3 Amend the Senate Health and Human Services Committee substitute to HB 1028 by striking
4 lines 14 through 27 on page 16 and inserting in lieu thereof the following:

5 "(b) Where a medical malpractice action is brought against more than one person for injury
6 to person or property and the plaintiff is to some degree responsible for the injury or
7 damages claimed, the trier of fact, in its determination of the total amount of damages to
8 be awarded, if any, may apportion its award of damages among the persons who are liable
9 and whose degree of fault is greater than that of the injured party according to the degree
10 of fault of each person. Damages, if apportioned by the trier of fact as provided in this
11 Code section, shall be the liability of each person against whom such damages are awarded,
12 shall not be a joint liability among the persons liable, and shall not be subject to any right
13 of contribution.

14 (c) In all medical malpractice cases where an action is brought against more than one
15 person for injury to person or property and a trier of fact returns an award of damages
16 against more than one person and that award of damages is a joint liability among the
17 persons liable, any person against whom the award was returned shall have the right to
18 request that the trier of fact undertake a postverdict apportionment of damages among all
19 persons found liable. Such a postverdict apportionment of damages shall determine the
20 responsibility of each person held liable for the total award for purposes of contribution
21 under paragraph (d) of this Code section. When this procedure is invoked, the trial court
22 shall have discretion to permit the presentation of additional argument or evidence to the
23 trier of fact on the question of apportionment of damages.

24 (d) If a judgment in a medical malpractice case is entered jointly against several persons
25 and is paid off by one of them, the others shall be liable to such person for contribution for
26 their respective pro rata shares of the judgment unless the trier of fact makes a postverdict
27 apportionment of damages under subsection (c) of this Code section in which case the
28 liability of the persons to one another under this Code section shall be determined by the
29 postverdict apportionment of damages.

30 (e) Notwithstanding the provisions of this Code section and any other provisions of law
31 which might be construed to the contrary, the plaintiff shall not be entitled to receive any
32 damages if the plaintiff is 50 percent or more responsible for the injury or damages
33 claimed.

34 (f) This Code section shall not affect venue provisions regarding joint actions.

- 1 (g) With respect to medical malpractice actions, this Code section shall control over any
- 2 conflicting provisions of Title 51 or any other law."