

SENATE BILL 1878
By Crutchfield

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 11, relative to the right of contribution among tort-feasors.

WHEREAS, pursuant to Chapter 575 of the Public Acts of 1968, the remedy of contribution among tort-feasors, as set out in the Uniform Contribution Among Tort-feasors Act of 1955, was granted to the citizens of this state; and

WHEREAS, it is the desire of the Tennessee General Assembly to make plain the continuing viability of the remedy of contribution to the full extent provided in Tennessee Code Annotated, Title 29, Chapter 11, and to clarify the procedure for application of the remedy of contribution; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-11-102, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) The right of contribution exists only in favor of a tort-feasor who has paid more than his or her proportionate share of the shared liability between two (2) or more tort-feasors for the same injury or wrongful death, in accordance with the procedure set out in Section 29-11-104, and the tort-feasor's total recovery is limited to the amount paid by the tort-feasor in excess of this proportionate share.

SECTION 2. Tennessee Code Annotated, Section 29-11-102, is further amended by deleting the first sentence of subsection (c) and by substituting instead the following:

(c) A liability insurer, who by payment has discharged in full or in part the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, may be subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's proportionate share of the shared liability between two (2) or more tort-feasors for the same injury or wrongful death, in accordance with the procedure set out in Section 29-11-103.

SECTION 3. Tennessee Code Annotated, Section 29-11-103, is amended by deleting it in its entirety and by substituting instead the following:

Section 29-11-103. In determining the proportionate share of the shared liability between two (2) or more tort-feasors for the same injury or wrongful death, for purposes of pursuit of contribution among tort-feasors only:

(1) The relative degrees of fault of the tort-feasors in bringing about the injury or wrongful death shall be compared, and the party seeking contribution shall be entitled to recovery only to the extent that the party has paid more than his or her proportionate share of the common liability, with the proportionate share to be determined solely by comparison of the relative degrees of fault of each party.

(2) If equity requires, the collective liability of some as a group shall constitute a single proportionate share; and

(3) Principles of equity applicable to contribution generally shall apply.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it, and shall govern the method by which the courts of Tennessee shall apportion contribution in all actions tried thereafter.