

By: Chism, Nicholson

To: Judiciary A

HOUSE BILL NO. 528

1 AN ACT TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE JOINT AND SEVERAL LIABILITY IN TORT ACTIONS; AND FOR  
3 RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 85-5-7, Mississippi Code of 1972, is  
6 amended as follows:

7 85-5-7. (1) As used in this section "fault" means an act or  
8 omission of a person which is a proximate cause of injury or death  
9 to another person or persons, damages to property, tangible or  
10 intangible, or economic injury, including but not limited to  
11 negligence, malpractice, strict liability, absolute liability or  
12 failure to warn. "Fault" shall not include any tort which results  
13 from an act or omission committed with a specific wrongful intent.

14 (2) \* \* \* In any civil action based on fault, the liability  
15 for damages caused by two (2) or more persons shall not be joint  
16 and several \* \* \*.

17 (3) \* \* \* In any civil action based on fault, the liability  
18 for damages caused by two (2) or more persons shall be several  
19 only, and not joint and several and a joint tort-feasor shall be  
20 liable only for the amount of damages allocated to him in direct  
21 proportion to his percentage of fault. In assessing percentages

22 of fault an employer and the employer's employee or a principal  
23 and the principal's agent shall be considered as one (1) defendant  
24 when the liability of such employer or principal has been caused  
25 by the wrongful or negligent act or omission of the employee or  
26 agent.

27 (4) Any defendant held jointly liable under this section  
28 shall have a right of contribution against fellow joint  
29 tort-feasors. A defendant shall be held responsible for  
30 contribution to other joint tort-feasors only for the percentage  
31 of fault assessed to such defendant.

32 (5) Nothing in this section shall eliminate or diminish any  
33 defenses or immunities which currently exist, except as expressly  
34 noted herein.

35 \* \* \*

36 (6) In actions involving joint tort-feasors, the trier of  
37 fact shall determine the percentage of fault for each party  
38 alleged to be at fault.

39 (7) Nothing in this section shall be construed to create a  
40 cause of action. Nothing in this section shall be construed, in  
41 any way, to alter the immunity of any person.

42 SECTION 2. This act shall take effect and be in force from  
43 and after July 1, 2000.