

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H. F. 90

DATE: March 4, 1999

Version: First Engrossment

Authors: Sviggum and others

Subject: Joint and Several Liability

Analyst: Deborah K. McKnight, 296-5056

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

Joint and several liability is the tort law concept that, where there are multiple defendants who are all liable, each one is responsible for all the plaintiff's damages if the other defendants cannot pay. This common law principle has been modified in Minnesota Statutes and is further modified by this bill.

1 Under current Minnesota Statutes, if a defendant is 15 percent or less at fault, the defendant can be required to pay the portion of plaintiff's damages that is up to four times the defendant's percentage of fault. (Example: Defendant A is 15% at fault; Defendant B is 80% at fault and bankrupt; Defendant A has to pay up to 60% of plaintiff's damages.) This rule applies except in specified environmental actions, when a defendant would not be protected by the "not greater than four times" limit.

The bill changes current law as follows. A defendant less than 40% at fault, will be required to pay a percentage of the plaintiff's award no greater than the defendant's percentage of the total fault. (Rewriting the first example: Defendant A is 15% at fault; Defendant B is 80% at fault and bankrupt; Defendant A pays 15% of plaintiff's damages. On the other hand, if Defendant A is 41% at fault and Defendant B is 50% at fault and bankrupt, Defendant A pays all the plaintiff's damages.)

The above rule would apply in all cases because the bill strikes the current different treatment of environmental actions and also strikes the current separate rule for state and local government defendants. In current law, if local government defendants are less than 35% at fault, they would have to pay a part of the plaintiff's damages not greater than twice their percentage of fault. (Following the first example above again: under current law, City A is 15% at fault; Private Citizen Defendant B is 80% at fault and bankrupt; City pays not more than 30% of plaintiff's damages, i.e., twice the city's percentage of fault.) By striking the separate joint and several liability rule for government defendants, the bill has the effect of treating government the same as private defendants.

2 **Application.** Section 1 applies to claims arising from events that occur on or after

August 1, 1999.