
Research Report

March 2006



106 N. Bronough St. ♦ P. O. Box 10209 ♦ Tallahassee, FL 32302 ♦ (850) 222-5052 ♦ FAX (850) 222-7476

This report was initially released electronically before being printed in hardcopy format

Repeal of Joint and Several Liability Law Would Likely Have Little Impact on State Medical and Social Services Costs

A long-standing issue facing the 2006 Florida Legislature is removing the legal doctrine of joint and several liability. Legislative reforms initiated two decades ago may culminate in eliminating the application of this contentious legal doctrine in civil court proceedings.

Supporters of joint and several liability assert that maintaining the doctrine is essential to assuring that people injured by others' negligence are justly compensated. They also contend that if a significant number of injured parties do not get just compensation, they will increase taxpayer burdens on state Medicaid and social services programs.

Opponents contend that despite legislative actions in 1986 and 1999 narrowing the application of joint and several liability, Florida law continues to unfairly target selected defendants—including those with “deep pockets”—to pay more than their fair share of plaintiffs' claims. They also point out that the Florida Supreme Court, more than three decades ago, laid the groundwork for the adoption of pure comparative fault to replace joint and several liability. In *Hoffman v. Jones*, the Court reasoned that the liability of a defendant should depend upon “what damages he caused...[because]... [i]n the field of tort law, the most equitable result that can ever be reached by a court is the equation of liability with fault.” (*Hoffman v. Jones*, 280 so.2d 431 (Fla. 1973).

House Bill 145 passed by the House of Representatives by a vote of 93 to 27 on March 16, 2006, and Senate Bill 2006 would eliminate joint and several liability in favor of apportioning damages in civil suits based upon percentage of fault. If this legislation is approved, Florida will join: eight other states, including our neighboring states of Georgia, Louisiana, and Mississippi, that have completely eliminated application of joint and several liability. Nine additional states have eliminated it with special exceptions, and twenty-one others, including Florida, have partially eliminated it.¹

¹ Florida TaxWatch reviewed the status of joint and liability status in the 50 states published on the website of the American Tort Reform Association, the National Conference of State Legislatures, an analysis prepared by Professor Victor E. Schwartz, the author of a standard tort textbook used in law schools throughout the United States. It is noted that there are several discrepancies among these lists.

A 1986 Florida TaxWatch report found that modifying or eliminating joint and several liability likely would not increase Florida government budgets and taxes. Research presented in this report shows that the impact on Florida's \$16 billion Medicaid budget from abolishing joint and several liability could range from \$4.3 million (.03%) to \$12.9 million (.08%) in 2007. If so, state taxpayers' share would be between \$1.8 and \$5.3 million. However, as provided in Section 409.910(1), Florida Statutes, Medicaid would recoup an undetermined portion of this cost in subsequent years as plaintiffs receive court settlements from third parties. A staff analysis of House Bill 145 states that there would be no fiscal impact on state and local government expenditures if joint and several liability is abolished. A staff analysis of the Senate Bill 2006 (companion bill) states that injured persons who do not collect sufficient portions of their judgments may seek government assistance.

The Doctrine of Joint and Several Liability

Joint and several liability has evolved over the centuries through English common law and the American judicial system. A fundamental tenet of common law and our United States Constitution is that people injured by the malicious or negligent acts of others have the right to sue to redress actual wrongdoing.

Originally applied to wrongdoers acting in concert, joint and several liability was of little concern under a controlling legal doctrine of "contributory negligence" because injured parties who were partly responsible for their own injury had difficulty gaining judgments against defendants who acted in concert. This changed beginning in the 1960s as contributory negligence was replaced by "comparative negligence," which largely ignores the responsibility of a plaintiff and allows proportions of fault to be assessed against defendants who acted independently and who may have been only tangentially involved.

Because joint and several liability allows a plaintiff to recover all damages from just one of multiple defendants, even though that particular defendant may be the least responsible, and even if the plaintiff is partially to blame, opponents of this doctrine charge that plaintiffs and their attorneys have a powerful financial incentive to search out wealthy or well-insured deep pocket defendants to sue. This, they say, unfairly causes defendants to settle out of court for fear of being found fully liable for substantial judgments.

Proponents of maintaining the status quo contend that without joint and several liability, people who are injured because of others' negligence may not be justly compensated. A secondary contention is that if a significant number of injured parties do not receive just compensation from our court system, these individuals will fall back on state welfare and public assistance programs—causing social service budgets and, potentially, taxes to rise.

Opponents of joint and several liability favor state laws establishing that each defendant in a claim is "severally" liable, meaning that the liability is separate and distinct from the liability of another defendant. In other words, each defendant should be required to pay

only its proportionate share of a plaintiff's loss. For example, if a defendant is 15% at fault for an accident, that defendant should pay only 15% of any economic damages awarded, regardless of the total size of the judgment or the ability of other defendants to pay. This is currently the legal standard in civil case law for payment of non-economic damages, as this law was enacted in 1986.

Florida's Application of Joint and Several Liability

After release of the May 1986 Florida TaxWatch report "Abolishing or Modifying Joint and Several Liability Would Not Likely Increase Florida Government Budget and Taxes," the 1986 Florida Legislature eliminated application of joint and several liability for non-economic damages in negligence actions, as well as its application to economic damages for defendants who are found to be less at fault than plaintiffs. The main result was that the altered "jackpot of gold" (no longer necessarily someone with deep pockets) essentially served to reduce the number and size of frivolous lawsuits.

The 1999 Legislature further modified joint and several liability, creating the nation's most complicated multi-tiered system for judges to apply in awarding economic damages, as follows:

- ▶ If a plaintiff is found to have some degree of fault that is less than the defendant(s), any defendant 10% or less at fault is not subject to joint liability; for any defendant more than 10% but less than 25% at fault, joint liability is limited at \$200,000; for any defendant at least 25% but not more than 50% at fault, joint liability is limited to \$500,000; and for any defendant more than 50% at fault, joint liability is limited to \$1 million.
- ▶ If a plaintiff is found to be without fault, any defendant less than 10% at fault is not subject to joint liability; for any defendant at least 10% but less than 25% at fault, joint liability is limited to \$500,000; for any defendant at least 25% but not more than 50% at fault, joint liability is limited to \$1 million; and for any defendant more than 50% at fault, joint liability is limited to \$2 million.

Plaintiff Damages in Civil Court Trials

Non-economic damage includes pain and suffering, mental anguish, loss of capacity for enjoyment of life, and other non-monetary losses. Joint and several liability for non-economic damages was eliminated for non-economic damages by the 1986 Florida Legislature.

Economic damage is past and future lost income, medical and funeral expenses, lost support and services, replacement value of lost personal property, loss of appraised fair market value of real property, costs of construction repairs and any other economic loss which would not have occurred but for the injury giving rise to the cause of action. Joint and several liability for economic damages was retained in 1986 and modified in 1999 to be the nation's most complex multi-tiered system.

Views on Joint and Several Liability Differ Widely

Proponents of the “status quo” say joint and several liability should be retained because:

- ▶ It protects the right of citizens to be fully compensated;
- ▶ Without it, people who are injured because of others’ negligence, no matter how small, may not be justly compensated by those responsible for their injury; and
- ▶ If a significant number of injured parties are unable to get just compensation from state court proceedings, these individuals will fall back on state welfare and public assistance programs, thereby causing social service budgets and, potentially, taxes to rise.

Opponents assert joint and several liability should be eliminated because:

- ▶ Genuine victims deserving of justice are hurt by courts clogged with frivolous personal injury and other liability-related cases;
- ▶ An unknown degree of risk contributes to high insurance rates and difficulty in getting coverage for business, and government. Joint and several liability is a roulette wheel because the "damages arrow" can stop anywhere, deep pockets or not;
- ▶ Florida law makes a defendant liable for economic damage awards of up to \$2 million more than the defendant’s “fair share.” Even when a plaintiff is partly at fault for his injury, a defendant can be forced to pay up to \$1 million over his fair share of a damage award; and
- ▶ Individuals and businesses should know that when they go to court, they will only pay their fair share of any economic damages for which they are found responsible.

Repealing Florida’s Joint and Several Liability Law Would Have Little Impact on State Medicaid and Social Services Costs

A Florida TaxWatch analysis of negligence case court data suggests a relatively minor impact on state Medicaid costs² if joint and several liability is abolished.

² Two social services programs that can provide benefits to plaintiffs are the Temporary Assistance for Needy Families (TANF) program and Supplemental Security Income (SSI). TANF is a federally established welfare program that provides assistance to needy families who are below a certain income level. It is currently 63% federally funded through a block grant, and 37% state funded. The average annual TANF cost per person in 2004-05 was \$1,716 (state share: \$635). SSI is a federal cash assistance program that provides monthly payments to low-income aged, blind, and disabled persons. It is administered by the state but funded entirely by the federal government. The average annual benefit in 2004-05 was \$8,545, according to data provided by the Florida Department of Children and Families.

This finding is predicated on the following data and assumptions that were used in the calculations in Appendix A:

- ▶ 2000 through 2004 state courts caseload data posted at <http://trialstats.flcourts.org/trialcourtstats.aspx> in four categories (Professional Malpractice, Product Liability, Automobile Negligence, and Other Negligence) where joint and several liability can be applied under Section 768.81, Florida Statutes;
 - ▶ An estimated number of negligence cases in 2007-10, calculated from the average number of negligence cases in 2000-03, using data posted at <http://trialstats.flcourts.org/trialcourtstats.aspx>. A constant caseload estimate for 2007-10 was used because total cases between 2000 and 2003 fluctuated annually above and below the average for that period.
 - ▶ Only those defendants who will be affected by the proposed law are included in the estimated additional Medicaid cost. This is because under current law, joint and several liability does not apply to a defendant whose fault is 0-10%, significantly limits the dollar amount in a judgment for a defendant whose fault is between 10% and 50%, and limits the dollar amount in a judgment for a defendant whose fault more than 50%. The proposed amendment will abolish joint and several liability for the 90% of a defendant's fault in current state law.
 - ▶ Three hypothetical scenarios to estimate the percentage of these cases in which joint and several liability might be applied are 10%, 20% and 30% of professional malpractice, product liability, auto negligence, and other negligence cases.
 - ▶ An estimated number of plaintiffs, calculated by multiplying the average number of plaintiffs in the four types of negligence cases (which was 1.52 according to aggregation of data collected by court clerks in 40 of Florida's 67 counties) by the estimated number of cases in the four categories above where joint and several liability could be applied;
 - ▶ An estimated number of plaintiffs who might be eligible for Medicaid, calculated by assuming that 10% of plaintiffs who are not fully compensated in court might be eligible to claim Medicaid benefits. The 10% assumption is based on the following criteria: 1) The proposed reform will only affect only cases in the state courts system. There are certain cases in which victims see no benefit in suing defendants who have no insurance and no income to pay for economic damages. In such cases, victims might be eligible for Medicaid regardless of whether there is joint and several liability. Therefore, the number of plaintiffs is based on an estimated number of court cases where joint and several liability can be applied. 2) The Medicaid program pays medical bills for eligible plaintiffs; however, when a case is settled, pursuant to section 409.910(1), Medicaid is the first payee and is reimbursed in full, assuming that the settlement is adequate to do so. 3) Attorneys accept cases where there is a good chance that the plaintiff will receive
-

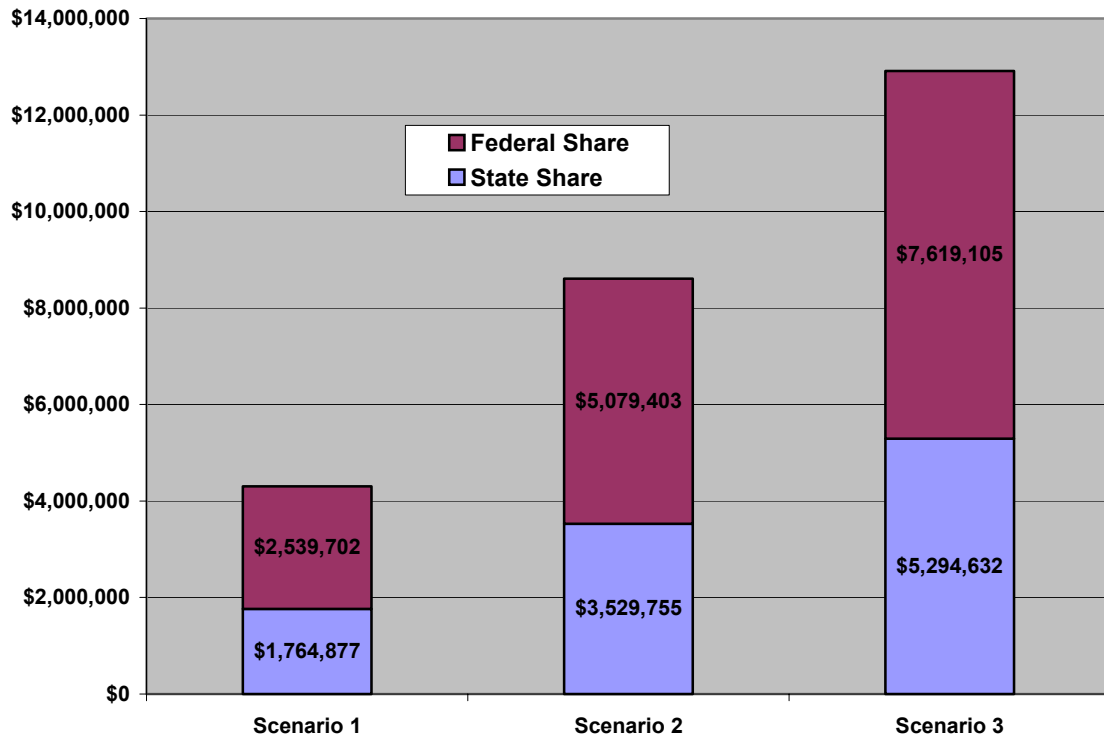
reasonable compensation after Medicaid, if applicable, is repaid, and expert witnesses and attorneys receive their fees. This means that for any case settled in court, there is only a small chance that Medicaid will not be fully reimbursed. 4) Abolishing joint and several liability does not mean that plaintiffs will not recover any money for economic damages. It means that plaintiffs may be paid partially if at least one defendant cannot pay his/her proportionate share. 5) Although there is the possibility of very expensive individual cases resulting in costs sloughed to Medicaid (e.g. a traumatic brain injury to a low-income, young, working single-parent) that would be very costly on an individual basis, the circumstances would also have to exist for such cases, namely multiple defendants, one who is a “deep pocket,” and a finding in favor of the plaintiff. What this means is that the same factors identified for all cases will whittle reduce the number of very costly “monster” cases. 6) Even in a worse case scenario, if a plaintiff cannot recover anything from the defendants, he/she has to be below a certain income level in order to be eligible for Medicaid. Currently, 17% of Florida’s population is on Medicaid.

► The average annual cost per a Medicaid recipient, according to the Agency for Health Care Administration, was \$4,484 in 2004-05. Plaintiff and defense attorneys consulted by Florida TaxWatch stated a belief that there are many cases in which medical bills total less than \$50,000 and a few cases above \$100,000. Therefore, an average of \$50,000 per a Medicaid eligible plaintiff is used to estimate the Medicaid costs.

► A projection of total Medicaid costs for the federal government and Florida state government between 2007-10, based on the above three scenarios, if joint and several liability is repealed.

If joint and several liability is abolished, as seen in the figure below, the estimated Medicaid increase in 2007 would range from \$1.8 to \$5.3 million for Florida’s state government, and \$2.5 million to \$7.6 million for the federal government, for a total impact of as much as \$12.9 million. Compared to an estimated \$16 billion state Medicaid budget in 2007, the total increase, based on three scenarios, would be between three and eight hundredths of one percent. In subsequent years, Medicaid would recoup an undetermined portion of these costs.

**Repeal of Joint and Several Liability Law Could Have up to an Estimated \$12.9
Million Impact on Florida's \$16 Billion Medicaid Budget in 2007**



1986 Florida TaxWatch Report Examined Torts Issue
**Impact on Florida Government of Further Modifying or Eliminating
Joint and Several Liability**

A 1986 Florida TaxWatch report, entitled “*Abolishing or Modifying Joint and Several Liability Would Not Likely Increase Florida Government Budget and Taxes*,” examined the impact of modifying or eliminating joint and several liability on state government from the standpoint of increased demand for benefits by defendants. The key question addressed in the report: **Would welfare and social service agency budgets, and thus taxes, be forced upward by people, who would otherwise be compensated through the court system, falling back on state benefits and services in the absence of deep pockets from successful application of joint and several liability?**

The report concluded that, at best, this scenario was highly improbable because a substantially increased number of personal injury cases would have to meet a hierarchy of six independent conditions:

- ▶ More than one defendant is liable;
- ▶ There is a gross difference in liability among defendants;
- ▶ At least one of the parties found at fault is unable to pay its share of damages;
- ▶ The defendant least at fault is a deep pocket;
- ▶ The plaintiff is injured badly enough that he is unable to work and/or care for himself and family; and
- ▶ The plaintiff's income or resources are within the state's welfare and social service eligibility guidelines.

If any one of these conditions is not met in a case, the repeal of joint and several liability would have no effect on whether the injured party would need to fall back on government assistance.

In 1986, approximately 25,000 negligence cases were filed in Florida. In order to have raised the combined budgets of programs described in the 1986 report by 1% in the following year, more than 3,300 liability cases meeting each of the above conditions would have to have been adjudicated. And injured parties would have to have received each benefit and service.

Having all six conditions occur in 3,300 cases was considered highly unlikely. How unlikely? In any given case, assuming each condition had a 50/50 chance of occurring (actually, for most conditions there are more possibilities), there was just a 1.5% probability that all six would occur. Although the 1.5% probability of occurrence would be

the same for all cases, the chances of this 1.5% probability occurring 3,300 times were considered very unlikely.

Although no data existed on the number of cases that met these conditions, it was statistically improbable that the above scenario would have occurred enough times for the cost of state benefits to rise sufficiently to necessitate a tax increase. In fact, there was a 1.5% probability of the six conditions occurring in a total of more than 3,300 negligence cases. If that probability had occurred, 375 plaintiffs injured in negligence cases could have required social services to compensate for court-awarded damages they would otherwise not have received. The social services provided to these plaintiffs would have constituted a .1% impact on the budget of the services these individuals likely would have received—a statistically insignificant impact that most certainly would not have necessitated a tax increase.

State Reforms of Joint and Several Liability

Over the past two decades, eight states have completely eliminated application of the doctrine of joint and several liability in negligence suits. Nine states have eliminated the doctrine with special exceptions, and 21 states have partially eliminated it. (See Appendix B.)

Most reforms short of repeal cap the percentage of damages that can be paid by one party. Some states limit the amount one party must pay except the part for which a plaintiff is determined to be responsible. Others cut off damages at twice the percent that any one party is determined to have been at fault.

Research Suggests Impact of Tort Reforms on Insurance and Health Care Remains to be Seen

The following information was compiled by Florida TaxWatch while conducting research on joint and several liability.

Insurance

► The Foundation for Taxpayers and Consumers points out that in addition to eliminating the application of joint and several liability for non-economic damages and reforming other provisions of state torts law, the 1986 Legislature required insurers to reduce their insurance rates concomitantly unless they could demonstrate to state insurance regulators that the new limitations on consumers' rights would not reduce their costs.

Six months after the law was enacted, two of the nation's largest insurance companies told the Florida Department of Insurance (now the Department of Financial Services) that limiting compensation to injury victims would not reduce insurance rates.⁽²⁾ St. Paul Fire and Marine Insurance Company, the nation's largest medical malpractice insurer, and

Aetna Casualty & Surety Co., provided an actuarial analysis of five specific limitations on victim's rights that the insurance industry contended would reduce premiums. Overall, the Aetna report concluded that one provision of the law would reduce rates by a maximum of .004%, while the other tort restrictions would have no impact on rates.⁽³⁾ The St. Paul study concluded that the restrictions “will produce little or no savings to the tort system as it pertains to medical malpractice.” See: <http://www.consumerwatchdog.org/insurance/fs/?postId=1716>

► The United States Government Accountability Office (GAO) testified to Congress in 2003 that limited available data indicated malpractice premium rates have grown more slowly in states with tort reform laws that include certain caps on non-economic damages. Tort reforms and other actions that reduce insurer losses below what they otherwise would have been should ultimately slow the increase in premium rates, if all else holds constant. But several years may have to pass before insurers can quantify and evaluate the effect of the laws on losses from malpractice claims and before an effect on premium rates is seen. See: <http://www.gao.gov/docdb/lite/details.php?rptno=GAO-04-128T>

► Section 25.077, Florida Statutes, enacted in 1999, requires clerks of court, beginning in 2003, to collect and report data to the Office of the State Courts Administrator on negligence case settlements and jury verdicts, as the President of the Senate and the Speaker of the House of Representatives deem necessary. Data collected would include the percentage of fault of each party, the amount of economic damages and non-economic damages awarded to each plaintiff, damages that are to be paid jointly and severally and by which defendants, and the amount of any punitive damages to be paid by each defendant. The State Courts Administrator's Office responded to an inquiry by Florida TaxWatch that no requests for data collection had been received as of March 2006.

► The 2005 Legislature directed its Office of Program Policy and Government Accountability (OPPAGA) to perform an analysis of expected impacts of tort reform on insurance rates and settlements and report results by March 2007.³

Health Care

► Kessler and McClellan (1996) analyzed the impact of tort reform on Medicare hospital spending and found a significant cost savings in states that enacted tort reforms.⁴ Another study also confirmed cost savings in states with tort limits, although of a smaller magnitude.⁵ However, the U.S. Congressional Budget Office (CBO) subsequently

³ In a competitive insurance market, insurance premiums should be strongly related to costs incurred by insurance providers. Because the proposed repeal of joint and several liability would likely reduce tort related costs for selected insurance providers, and if market forces work effectively, there should be some reduction in insurance premiums for traditional deep pocket health care entities such as hospitals.

⁴ Daniel Kessler and Mark McClellan, "Do Doctors Practice Defensive Medicine?" *Quarterly Journal of Economics* (May 1996), pp. 353-390.

⁵ Lisa Dubay, Robert Kaestner, and Timothy Waidmann, "The Impact of Malpractice Fears on Cesarean Section Rates," *Journal of Health Economics*, vol. 18 (August 1999), pp. 518-519.

conducted two studies and found no evidence that restrictions on tort liability reduce medical spending.⁶

► Klick and Stratmann (2005) examined the impact of joint and several liability reform on infant mortality rate. They found that abolishing joint and several liability increased white infant mortality rate but did not change black infant mortality rate.⁷

► Klick (2005) examined the relationship between physician supply and various tort reforms, finding that such reforms had increased the number of high-risk specialists in states enacting them. He also found that abolishing joint and several liability, requiring periodic payments of future losses, and establishing no fault victims compensation funds jointly reduced the number of high risk specialists.⁸

► A reduction in specialists may occur because hospitals, not physicians, traditionally have been the deep pockets in joint and several liability cases. Thus, while hospitals would benefit from abolishing joint and several liability, plaintiff attorneys would be more likely to go after physicians' personal assets because recovery could not be sought from deeper pocket defendants if the joint and several liability law is repealed (Klick & Stratmann, 2005).

⁶ CBO, "Limiting Tort Liability for Medical Malpractice," Economic and Budget Issues Brief, January 8, 2004.

⁷ Klick, Jonathan, and Thomas Stratmann (2005), "Does Medical Malpractice Reform Help States Retain Physicians and Does it Matter?" Working paper available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=870492

⁸ Klick, Jonathan (2005), "Medmal Reform and Physicians in High Risk Specialties," Working Paper.

Conclusion

Policy makers and taxpayers alike should be concerned with even one person who cannot receive adequate compensation when injured by the negligence of others. However, our laws guarantee only the right to sue, not an assurance that damages will be awarded. A person who is suing one party for damages, with no access to a deep pocket, has no guarantee that the defendant will be able to pay.

Hopefully, no injured parties will go uncompensated in Florida. Of those who do, it is highly unlikely that the cause would be the absence of joint and several liability. Florida TaxWatch estimates that if joint and several liability is abolished, the additional Medicaid cost in 2007 would range from \$1.8 to \$5.3 million for Florida's state government, and \$2.5 million to \$7.6 million for the federal government, for a total impact of as much as \$12.9 million. Compared to an estimated \$16 billion state Medicaid budget in 2007, the total increase, based on three scenarios, would be between three and eight hundredths of one percent. This additional cost will be reduced by an undetermined amount reimbursed that would be reimbursed to the Medicaid program in subsequent years under the Medicaid third-party liability act, section 409.910(1), F.S. In 2004-05, more than \$27 million was reimbursed to the Medicaid Casualty Program, an unknown portion of which was derived from plaintiffs' benefits.

Appendix A: Estimated Impact on Florida's Medicaid Budget from Repeal of Joint and Several Liability Law

Year	# of Neg. Cases (1)	# of Neg. where J&S Could be Applied (2)	Hyp. % of J&S Cases (3)	Estimated # of J&S Cases (4)	Estimated # of J&S Plaintiffs (5)	Medicaid Eligible (6)	Av. An. Med. Cost per Cap.(7)	Total Medicaid Cost (8)	Total State Share (9)
2007	38528	6824	10%	682	1037	86	\$50,000	\$4,304,579	\$1,764,877
	38528	6824	20%	1365	2074	172	\$50,000	\$8,609,158	\$3,529,755
	38528	6824	30%	2047	3112	258	\$50,000	\$12,913,738	\$5,294,632
2008	38528	6824	10%	682	1037	86	\$50,000	\$4,304,579	\$1,764,877
	38528	6824	20%	1365	2074	172	\$50,000	\$8,609,158	\$3,529,755
	38528	6824	30%	2047	3112	258	\$50,000	\$12,913,738	\$5,294,632
2009	38528	6824	10%	682	1037	86	\$50,000	\$4,304,579	\$1,764,877
	38528	6824	20%	1365	2074	172	\$50,000	\$8,609,158	\$3,529,755
	38528	6824	30%	2047	3112	258	\$50,000	\$12,913,738	\$5,294,632
2010	38528	6824	10%	682	1037	86	\$50,000	\$4,304,579	\$1,764,877
	38528	6824	20%	1365	2074	172	\$50,000	\$8,609,158	\$3,529,755
	38528	6824	30%	2047	3112	258	\$50,000	\$12,913,738	\$5,294,632
(1) The number of negligence cases used to project 2007–10 is the average of cases in 2000-03 average, calculated from data on the State Courts System website. A constant caseload estimate for 2007-10 is used because total cases between 2000-03 fluctuated annually above and below the average for that period.									
(2)The four relevant categories of cases are Malpractice, Product Liability, Automobile Negligence, and Other Negligence.									
(3) Three hypothetical scenarios of joint and several liability being applied: in 10%, 20% and 30% of medical malpractice, auto negligence cases, product liability, and other negligence cases.									
(4) Calculated by multiplying the number of negligence cases where joint and several liability could be applied by the percentages in hypothetical scenarios.									
(5) Calculated by multiplying the average number of plaintiffs (1.52 according to aggregation of data collected by court clerks in 40 of Florida's 67 counties) by the estimated number of cases where joint and several liability could be applied									
(6) Calculated by assuming that 10% of estimated plaintiffs in the previous column who are not fully compensated in court might be eligible to claim Medicaid benefits. Currently, 17% of Florida's population is on Medicaid.									
7) Cost data provided by the Agency for Health Care Administration.									
(8) Estimated number of Medicaid eligible plaintiffs times Florida's average annual Medicaid benefits per capita.									

Appendix B: State Reforms of Joint and Several Liability

State	Year	Reform Type
Alaska	1988	Completely eliminated joint and several liability.
Arizona	1987	Eliminated joint and several liability with special exceptions
Arkansas	2003	Partially eliminated joint and several liability
California	1986	Partially eliminated joint and several liability
Colorado	1986	Eliminated joint and several liability with special exceptions
Connecticut	1986	Partially eliminated joint and several liability
Florida	1999	Partially eliminated joint and several liability
Georgia	2005	Completely eliminated joint and several liability.
Hawaii	1994	Partially eliminated joint and several liability
Idaho	1987	Eliminated joint and several liability with special exceptions
Illinois	1986	Partially eliminated joint and several liability
Iowa	1997	Partially eliminated joint and several liability
Kentucky	1988	Completely eliminated joint and several liability.
Louisiana	1996	Completely eliminated joint and several liability.
Michigan	1995	Eliminated joint and several liability with special exceptions
Minnesota	2003	Partially eliminated joint and several liability
Mississippi	2004	Completely eliminated joint and several liability.
Montana	1997	Partially eliminated joint and several liability
Nebraska	1991	Partially eliminated joint and several liability
Nevada	1987	Eliminated joint and several liability with special exceptions
New Hampshire	1989	Partially eliminated joint and several liability
New Jersey	1995	Partially eliminated joint and several liability
New Mexico	1987	Eliminated joint and several liability with special exceptions
New York	1986	Partially eliminated joint and several liability
North Dakota	1987	Eliminated joint and several liability with special exceptions
Oklahoma	2004	Partially eliminated joint and several liability
Ohio	2003	Partially eliminated joint and several liability
Oregon	1995	Eliminated joint and several liability with special exceptions
Pennsylvania	2002	Partially eliminated joint and several liability
South Carolina	2005	Partially eliminated joint and several liability
South Dakota	1987	Partially eliminated joint and several liability
Texas	2003	Partially eliminated joint and several liability
Utah	1986	Completely eliminated joint and several liability.
Vermont	1985	Completely eliminated joint and several liability.
Washington	1986	Eliminated joint and several liability with special exceptions
West Virginia	2005	Partially eliminated joint and several liability
Wisconsin	1995	Partially eliminated joint and several liability
Wyoming	1994	Completely eliminated joint and several liability.

Total number of states completely eliminated joint and several liability: 8

Total number of states eliminated joint and several liability with special exceptions: 9

Total number of states partially eliminated joint and several liability: 21

Sources: Florida TaxWatch reviewed the status of joint and liability status in the 50 states published on the website of the American Tort Reform Association, the National Conference of State Legislatures, an analysis prepared by Professor Victor E. Schwartz, the author of a standard tort textbook used in law schools throughout the United States. It is noted that there are several discrepancies among these lists.

About Florida TaxWatch

Florida TaxWatch is a private, non-profit, non-partisan research institute that over its 25 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies and programs and to increase the productivity and accountability of Florida Government.

Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

This diligence has yielded impressive results: since 1979, policy makers and government employees have implemented three-fourths of Florida TaxWatch's cost-saving recommendations, saving the taxpayers of Florida more than \$6.2 billion--approximately \$1,067 in added value for every Florida family.

Florida TaxWatch has a historical understanding of state government, public policy issues, and the battles fought in the past necessary to structure effective solutions for today and the future. It is the only statewide organization devoted entirely to Florida taxing and spending issues. Its research and recommendations are reported on regularly by the statewide news media.

Supported by voluntary, tax-deductible memberships and grants, Florida TaxWatch is open to any organization or individual interested in helping to make Florida competitive, healthy and economically prosperous by supporting a credible research effort that promotes constructive taxpayer improvements. Members, through their loyal support, help Florida TaxWatch to bring about a more effective, responsive government that is accountable to the citizens it serves.

Florida TaxWatch is supported by all types of taxpayers -- homeowners, small businesses, large corporations, philanthropic foundations, professionals, associations, labor organizations, retirees--simply stated, the taxpayers of Florida. The officers, Board of Trustees and members of Florida TaxWatch are respected leaders and citizens from across Florida, committed to improving the health and prosperity of Florida.

With your help, Florida TaxWatch will continue its diligence to make certain your tax investments are fair and beneficial to you, the taxpaying customer, who supports Florida's government. Florida TaxWatch is ever present to ensure that taxes are equitable, not excessive, that their public benefits and costs are weighed, and that government agencies are more responsive and productive in the use of your hard-earned tax dollars.

The Florida TaxWatch Board of Trustees is responsible for the general direction and oversight of the research institute and safeguarding the independence of the organization's work. In his capacity as chief executive officer, the president is responsible for formulating and coordinating policies, projects, publications and selecting the professional staff. As an independent research institute and taxpayer watchdog, Florida TaxWatch does not accept money from Florida state and local governments. The research findings and recommendations of Florida TaxWatch do not necessarily reflect the view of its members, staff, distinguished Board of Trustees, or Executive Committee and are not influenced by the positions of the individuals or organizations who directly or indirectly support the research.

Florida TaxWatch Values

◆ Integrity ◆ Productivity ◆ Accountability ◆ Independence ◆ Quality Research

This *Briefings* was written by Dave Davis and Necati Aydin, Ph.D., Senior Research Analysts, with assistance from John Turcotte, Florida TaxWatch Consultant, under the direction of Dominic M. Calabro, President & CEO.

**Michael Jennings, Chairman; Steve Evans, Chief Operating Officer.
Florida TaxWatch Research Institute, Inc.**

© Copyright Florida TaxWatch, March 2006

For a copy of the Briefings, please call:
(850) 222-5052

OR

*Write TaxWatch at: P.O. Box 10209
Tallahassee, FL 32302*

OR

Access and download the report at:
www.floridataxwatch.org where this *Briefings* was
initially released before being printed in hardcopy format.



106 N. Bronough St.
P.O. Box 10209
Tallahassee, FL 32302

NON-PROFIT ORG.

U.S. POSTAGE
PAID

TALLAHASSEE, FL
Permit No. 409