

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 459 by Representative Abramson

CIVIL/PROCEDURE: Provides relative to motions for summary judgment

Synopsis of Senate Amendments

1. Specified that the court shall not allocate fault to a party or nonparty when the court grants a summary judgment that the party or nonparty is not at fault.

Digest of Bill as Finally Passed by Senate

Present law provides that a judgment on a motion for summary judgment shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to material fact, and that mover is entitled to judgment as a matter of law.

Proposed law deletes the reference to "pleadings, depositions, answers to interrogatories and admissions" showing no genuine issue as to material fact in a summary judgment proceeding being those "pleadings, depositions, answers to interrogatories or admissions" "on file".

Present law provides that a summary judgment shall be rendered or affirmed only as to those issues set forth in the motion under consideration by the court at that time.

Proposed law requires that, when the court rules on a motion for summary judgment, it shall consider only evidence admitted for purposes of the motion for summary judgment.

Present law provides that when the court determines that a party is not negligent, not at fault, or not the cause of the injury or harm alleged, then that party may not be considered in any subsequent allocation of fault.

Proposed law provides that, when a court grants a motion for summary judgment that a party is not negligent, not at fault, or not the cause of the injury or harm alleged, then that party shall not be considered in any subsequent allocation of fault.

Proposed law further provides that, when the court grants a motion for summary judgment that a party is not negligent, not at fault, or not the cause of the injury or harm alleged, then evidence shall not be admitted at trial to establish the fault of that party or nonparty, nor shall the issue of that party or nonparty's fault be either submitted to the jury or included on the jury verdict form.

Proposed law requires the court to specify in its judgment that a party or nonparty has been determined to be not at fault and that the party or nonparty is prohibited from being considered in any subsequent allocation of fault, and provides that proposed law shall not apply if the court fails to specify the applicability of proposed law.

(Amends C.C.P. Art. 966(B), (E), and (F))