

**CITY OF BALTIMORE
COUNCIL BILL 06-0232R
(Resolution)**

Introduced by: Councilmembers Kraft, Rawlings Blake, Clarke, Branch, Curran, D'Adamo
Introduced and adopted: November 13, 2006

A COUNCIL RESOLUTION CONCERNING

Request for State Legislation – Maryland – Comparative Negligence

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2 FOR the purpose of requesting the Honorable Chairs and Members of the Baltimore City Senate
3 and House Delegations to the 2007 Maryland General Assembly to introduce and advocate
4 for legislation to replace Maryland's contributory negligence system with a comparative
5 negligence system; urging the Honorable Chairs and Members of the Senate Judicial
6 Proceedings and House Judiciary Committees to give the legislation a favorable report; and,
7 upon passage of the legislation by the Maryland State Senate and the Maryland House of
8 Delegates, entreating the Governor to sign the legislation into law.

Recitals

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10 According to the Maryland State Bar Association, bills to establish comparative negligence
11 in Maryland have been introduced 8 times – 1988, 1993, 1996, 1997, 1998, 1999, 2000, and
12 2001. However, despite this decade and a half of impassioned debate to replace the current
13 contributory negligence standard with a more plaintiff-friendly comparative negligence standard,
14 Maryland remains 1 of 5 jurisdictions in the United States, along with Virginia, the District of
15 Columbia, Alabama, and North Carolina, that continues to use the contributory negligence
16 standard.

17 Contributory negligence, a common law defense to a claim or action in tort, applies to a
18 situation where a plaintiff or claimant has, through their own negligence, caused or contributed
19 to the injury they suffered from a tort. The contributory negligence standard can prevent a
20 plaintiff from collecting damages at all if the plaintiff's own negligence in any way contributed
21 to an injury while comparative negligence, currently used in 46 states, allows a jury to apportion
22 the fault for a plaintiff's injuries between multiple defendants and allows blame to be assigned to
23 the plaintiff, reducing the damage award.

24 Opponents of comparative negligence contend, in part, that passage of such a statute would
25 unnecessarily disrupt a common law concept of contributory negligence that has evolved over
26 centuries, would lead to greater uncertainty as the courts sorted out the new method, and would
27 challenge supporters of comparative negligence to demonstrate any serious flaws in Maryland's
28 use of the contributory negligence standard, and they hold that passage of comparative
29 negligence would have an adverse affect on the State's business climate.

30 Supporters of the comparative negligence standard argue that contributory negligence
31 unjustly bars plaintiffs from recovering losses in cases where their responsibility for the damage
32 was minimal and enables insurance companies to avoid financial responsibility in payment of
33 legitimate claims, and they challenge opponents to illustrate any adverse impact to the business
34 climate in the 46 states that have adopted the principle.

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike out~~ indicates matter deleted by amendment.

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1 Persons should not be barred from recovering for losses they have suffered simply because
2 their actions, in some small way, may have contributed to a situation that causes them significant
3 loss. The time has come for Maryland to join the majority of states in this country that have
4 adopted a comparative negligence standard and to, at long last, do away with the draconian and
5 out-dated concept of contributory negligence.

6 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That this
7 Body requests the Honorable Chairs and Members of the Baltimore City Senate and House
8 Delegations to the 2007 Maryland General Assembly to introduce and advocate for legislation to
9 replace Maryland’s contributory negligence system with a comparative negligence system; urges
10 the Honorable Chairs and Members of the Senate Judicial Proceedings and House Judiciary
11 Committees to give the legislation a favorable report; and, upon passage of the legislation by the
12 Maryland State Senate and the Maryland House of Delegates, entreats the Governor to sign the
13 legislation into law.

14 **AND BE IT FURTHER RESOLVED,** That this Resolution be forwarded to the Honorable Chairs
15 and Members of the Senate and House Delegations to the Maryland General Assembly following
16 the convening of the 2007 Session on January 10, 2007.

17 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Mayor, the
18 Governor, the Honorable Chairs and Members of the Baltimore City Senate and House
19 Delegations to the 2007 Maryland General Assembly, the Chairs and Members of the Senate
20 Judicial Proceedings and House Judiciary Committees, the Baltimore City Solicitor, the
21 Executive Director of the Mayor’s Office of State Relations, and the Mayor’s Legislative Liaison
22 to the City Council.