

BILL ANALYSIS

Senate Research Center

S.B. 614
By: Sibley
Economic Development
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As Filed

DIGEST

Currently, under Texas law, juries are prohibited from assigning fault in lawsuits to an unknown criminal or to others who are immune from lawsuits. As a result, juries must assign all responsibility for the acts of unknown criminals and other immune parties to defendants who may have been only marginally responsible. This bill requires the apportionment of responsibility to those persons who cannot feasibly be joined in a lawsuit.

PURPOSE

As proposed, S.B. 614 requires proportionate responsibility for those persons who cannot feasibly be joined in a lawsuit.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.003, Civil Practice and Remedies Code, to require the trier of fact to determine the percentage of responsibility for each responsible third party who cannot feasibly be joined.

SECTION 2. Amends Chapter 33A, Civil Practice and Remedies Code, by adding Section 33.005, as follows:

Sec. 33.005. DESIGNATION OF RESPONSIBLE THIRD PARTIES WHO CANNOT FEASIBLY BE JOINED. Requires a defendant seeking to have a person designated as a responsible third party who cannot feasibly be joined to file a notice with the court designating that person as a responsible third party who cannot feasibly be joined. Requires a notice filed under this subsection to be filed in accordance with the deadlines established for joining responsible third parties in Sections 33.004(a), (d), and (e). Provides that failure to file a notice within the established deadlines may be excused by the court upon a showing of good cause. Authorizes a claimant to file an objection to a designation filed under Subsection (a). Requires the court, if an objection is filed, to determine whether the designation is proper. Provides that a designation under this section is proper if the court determines that the designated person meets the definition established in Section 33.011(6)(C) and the defendant pleads sufficient facts concerning the alleged responsibility of the designated person to satisfy the pleading requirements of the Texas Rules of Civil Procedure. Sets forth certain assertions concerning the filing of a notice under Subsection (a) or any finding of fault against a responsible third party who cannot feasibly be joined in a suit.

SECTION 3. Amends Section 33.011(6), Civil Practice and Remedies Code, by adding Paragraph (C), to define “responsible third party who cannot feasibly be joined.”

SECTION 4. Amends Section 417.001(b), Labor Code, to provide that the insurance carrier’s subrogation interest is limited to the amount of the total benefits assumed by the carrier or paid by the carrier to the employee or the legal beneficiary less the amount by which the court reduced the judgment based on the percentage of responsibility determined by the trier of fact pursuant to Section 33.003, Civil Practice and Remedies Code, attributable to an employer, as described in Section 33.011(6)(C)(i), Civil Practice and Remedies Code. Requires the insurance carrier to perform certain actions if the recovery is for an amount greater than the amount of the insurance carrier’s subrogation interest. Deletes text regarding requirements of the carrier, if the recovery is for an amount greater than that paid or assumed

by the insurance carrier to the employee or the legal beneficiary.

SECTION 5. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 6. Emergency clause.