

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2925a Right of contribution where judgment not recovered; limitation on recovery; effect of settlement; defenses; intervention; subrogation; right of indemnity; breach of fiduciary obligation; liability of secretary of state.

Sec. 2925a.

(1) Except as otherwise provided in this act, when 2 or more persons become jointly or severally liable in tort for the same injury to a person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tort-feasor who has paid more than his pro rata share of the common liability and his total recovery is limited to the amount paid by him in excess of his pro rata share. A tort-feasor against whom contribution is sought shall not be compelled to make contribution beyond his own pro rata share of the entire liability.

(3) A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor if any of the following circumstances exist:

- (a) The liability of the contributee for the injury or wrongful death is not extinguished by the settlement.
- (b) A reasonable effort was not made to notify the contributee of the pendency of the settlement negotiations.
- (c) The contributee was not given a reasonable opportunity to participate in the settlement negotiations.
- (d) The settlement was not made in good faith.

(4) In an action to recover contribution commenced by a tort-feasor who has entered into a settlement, the defendant may assert the defenses set forth in subsection (3) and any other defense he may have to his alleged liability for such injury or wrongful death.

(5) A tort-feasor who satisfies all or part of a judgment entered in an action for injury or wrongful death is not entitled to contribution if the alleged contributee was not made a party to the action and if a reasonable effort was not made to notify him of the commencement of the action. Upon timely motion, a person receiving such notice may intervene in the action and defend as if joined as a third party.

(6) A liability insurer, who by payment has discharged in full or in part the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. It may assert this right either in its own name or in the name of its insured. This provision does not limit or impair any right of subrogation arising from any other relationship.

(7) This section does not impair any right of indemnity under existing law. Where 1 tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(8) This section does not apply to breaches of trust or of other fiduciary obligations.

(9) This section shall not operate to increase the liability of the secretary of state under Act No. 198 of the Public Acts of 1965, as amended, being sections 257.1101 to 257.1132 of the Michigan Compiled Laws.

History: Add. 1974, Act 318, Imd. Eff. Dec. 15, 1974

Compiler's Notes: Section 3 of Act 318 of 1974 provides: "The provisions of this amendatory act shall apply only to torts committed on or after January 1, 1975."