

## CHAPTER 604

## COMPARATIVE NEGLIGENCE

Sec.  
604.01 Contributory negligence; effect

**604.01 CONTRIBUTORY NEGLIGENCE; EFFECT.** Subdivision 1. **Scope of application.** Contributory negligence shall not bar recovery in an action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not as great as the negligence of the person against whom recovery is sought, but any damages allowed shall be diminished in the proportion to the amount of negligence attributable to the person recovering. The court may, and when requested by either party shall, direct the jury to find separate special verdicts determining the amount of damages and the percentage of negligence attributable to each party; and the court shall then reduce the amount of such damages in proportion to the amount of negligence attributable to the person recovering. When there are two or more persons who are jointly liable, contributions to awards shall be in proportion to the percentage of negligence attributable to each, provided, however, that each shall remain jointly and severally liable for the whole award.

Subd. 2. **Personal injury or death; settlement or payment.** Settlement with or any payment made to an injured person or to others on behalf of such injured person with the permission of such injured person or to anyone entitled to recover damages on account of injury or death of such person shall not constitute an admission of liability by the person making the payment or on whose behalf payment was made.

Subd. 3. **Property damage; settlement or payment.** Settlement with or any payment made to a person or on his behalf to others for damage to or destruction of property shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made.

Subd. 4. **Settlement or payment; admissibility of evidence.** Except in an action in which settlement and release has been pleaded as a defense, any settlement or payment referred to in subdivisions 2 and 3 shall be inadmissible in evidence on the trial of any legal action.

Subd. 5. **Credit for settlements and payments; refund.** All settlements and payments made under subdivisions 2 and 3 shall be credited against any final settlement or judgment; provided however that in the event that judgment is entered against the person seeking recovery or if a verdict is rendered for an amount less than the total of any such advance payments in favor of the recipient thereof, such person shall not be required to refund any portion of such advance payments voluntarily made. Upon motion to the court in the absence of a jury and upon proper proof thereof, prior to entry of judgment on a verdict, the court shall first apply the provisions of subdivision 1 and then shall reduce the amount of the damages so determined by the amount of the payments previously made to or on behalf of the person entitled to such damages.

[1969 c 624 s 1]

NOTE: Laws 1969, Chapter 624, Section 2, reads: "This act shall be effective in any action the trial of which is commenced after July 1, 1969."