

HOUSE No. 02149

The Commonwealth of Massachusetts

PRESENTED BY:

Garrett J. Bradley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to court proceedings.

PETITION OF:

NAME:

Garrett J. Bradley

DISTRICT/ADDRESS:

3rd Plymouth

HOUSE No. 02149

By Mr. Bradley of Hingham, a petition (accompanied by bill, House, No. 2149) of Bradley relative to court proceedings and settlements Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to court proceedings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 70A of chapter 111 of the General Laws, as appearing in the 2008 official
2 edition, is hereby amended by inserting after the first sentence the following sentence:-
3 The expense of any attorney's fees and costs incurred in enforcing the liability of the
4 tortfeasor and in obtaining such judgment, compromise or settlement shall be divided between
5 the health maintenance organization, or hospital, medical or dental service corporation and the
6 injured person in proportion to the amounts received by them from any such judgment,
7 settlement or compromise. If the settlement, judgment or funds available to satisfy the judgment
8 are less than the amount of plaintiff's total damages, the court may reduce after a hearing the
9 amount of said insurer's lien in the action, after evaluation of the plaintiff's total cognizable
10 damages at law.

11 SECTION 2. Section 13B of chapter 231 of the General Laws, as so appearing is hereby
12 amended by adding the following sentence:-

13 In civil actions in the superior court, plaintiffs, through their counsel, may ask at trial for
14 a specific monetary amount for damages.

15 SECTION 3. Said chapter 231 is hereby further amended by inserting after section 72 the
16 following section:-

17 Section 72A. In any action in which an injured person enters into a settlement with, or
18 obtains a judgment upon trial from a third party and benefits for his injuries have been paid
19 under chapter 152 , and the injured person and the insurer paying said benefits do not agree to
20 the amount each is entitled to recover out of such settlement or judgment, there shall be a just
21 and reasonable apportionment thereof in accordance with this section. If the settlement,
22 judgment or funds available to satisfy the judgment are less than the amount of plaintiff ' s total
23 damages, the court or other authority authorized to approve settlements under section 15 of
24 chapter 152 may reduce after a hearing the amount of said insurer ' s lien in the action, after
25 evaluation of the plaintiff ' s total cognizable damages at law. Except in the case of a final
26 judgment, where the plaintiff is dissatisfied with the apportionment by the court, he may
27 withdraw his consent to the settlement.

28 SECTION 4. Section 28 of Chapter 234 of the General Laws is hereby amended by inserting the
29 following after the second paragraph:

30 Notwithstanding the above, in all jury trials, both criminal and civil, the following procedures
31 shall govern.

32 (1) In addition to whatever jury voir dire of the jury venire is conducted by the court, and
33 subject to the provisions in subparagraph (3) of this act for the Commonwealth in criminal cases
34 involving multiple defendants, the court shall permit, upon the request of any party or any party's
35 attorney, the party or the party's attorney to conduct, under the direction of the court, an oral
36 examination of the jury venire.

37 (2) The court may impose reasonable limitations upon the questions allowed during such
38 examination. Additional time may be granted in the discretion of the court.

39 (3) In criminal cases involving multiple defendants, the Commonwealth shall be entitled
40 to the same amount of time as that to which all defendants together are entitled.

41 (4) This act shall not limit the number of peremptory challenges a party is entitled to by
42 statute or court rule.