MARYLAND DEFENSE COUNSEL, INC.
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February 9, 2026

Chair J. Sandy Bartlett
House Judiciary Committee
100 Taylor House Office Building
Annapolis, Maryland 21401

RE: HB 466 - Motor Vehicle Accidents Involving Vulnerable Individuals - Comparative Negligence - OPPOSE

Dear Chair Bartlett, Vice Chair Davis, and Members of the House Judiciary Committee:

On behalf of the Maryland Defense Counsel, Inc. ("MDC"), we oppose House Bill 466 ("HB 466"), which seeks to abolish contributory negligence in favor of comparative negligence in certain cases brought by "vulnerable individuals" as defined in Md. Code Ann., Transp., § 21-901.3[1] against operators of motor vehicles.

MDC opposes HB 466 for two primary reasons discussed below. *First*, HB 466 seeks to establish a comparative fault without abolishing joint and several liability among defendants. *Second*, HB 466 creates a confusing situation in which contributory negligence could apply to claims on one plaintiff while comparative negligence applies to the claims of another.

[1] Section 21-901.3(a) provides that:
"vulnerable individual" means:
(1) A pedestrian, including an individual who is lawfully:
(i) Actively working on a highway or a utility facility along a highway;
(ii) Providing emergency services on a highway; or
(iii) On a sidewalk or footpath;
(2) An individual who is lawfully riding or leading an animal on a highway, shoulder, crosswalk, or sidewalk; or
(3) An individual who is lawfully operating or riding any of the following on a highway, shoulder, crosswalk, or sidewalk:
(i) A bicycle;
(ii) A farm tractor or farm equipment;
(iii) A play vehicle;
(iv) A motor scooter;
(v) A motorcycle;
(vi) An animal-drawn vehicle;
(vii) An EPAMD; or
(viii) A wheelchair.

Contributory negligence has been the law in Maryland since 1847.[2] Under the doctrine of contributory negligence, if the plaintiff is at fault, then the plaintiff does not recover. Where more than one defendant is at fault, each defendant is jointly and severally liable for any judgment entered in favor of the plaintiff. Stated differently, joint and several liability flows from the finding that each defendant is responsible in full for the harm to a faultless plaintiff. Currently, a defendant with joint and several liability who is responsible for 10% of a plaintiff's harm can be made to pay 100% of the liability, but can then attempt to recover 50% of that liability if there is one other joint tortfeasor from whom collection can be obtained.[3]

HB 466 seeks to do away with contributory negligence in favor of comparative fault in cases where a "vulnerable individual" brings an action to recover damages for negligent operation of a motor vehicle. Under HB 466, plaintiffs whose claims may have been barred by their own fault, may now be able to recover. In establishing a comparative fault scheme, HB 466 does not affect the rule of joint and several liability.

Comparative fault in general, and as contemplated in HB 466, allows some recovery by an at-fault plaintiff. By allowing an at-fault plaintiff to recover, there is no reason to require an at-fault defendant to pay for more than their portion of the negligence. Joint and several liability, therefore, makes no sense in a comparative fault scheme.

For example, imagine a hypothetical scenario where a plaintiff, who is 40% at fault, receives a verdict of $100,000 against defendant 1, who is 50% at fault, and defendant 2, who is 10% at fault. The defendants would owe 60% of a verdict to plaintiff. If joint and several liability applies, defendant 2, while only being 10% at fault, can be forced to pay $60,000 for contributing only $10,000 in harm. Defendant 2 would then have to try to collect $30,000 from defendant 1, the defendant who was 50% at fault. Where all parties are at fault for causing an accident, there is no reason to only protect the plaintiff from collection risks. In short, installing *any* sort of comparative fault scheme would require the abolition of pure joint and several liability. MDC opposes HB 466 because it would install comparative fault while maintaining joint and several liability.

MDC also opposes HB 466 because it could lead to complicated scenarios. For example, a vulnerable individual who asserts a negligence claim against an automobile driver would be subject to comparative negligence. But, if that driver were to assert in the same action, a related claim against another automobile, contributory negligence would apply. That is sure to cause confusion.

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[2] *See Harrison v. Montgomery County Bd. of Educ.*, 295 Md. 442, 450 (1983) (citing *Irwin v.* Spriggs, 6 Gill 200 (1847)).
[3] *See Lahocki v. Contee Sand & Gravel Co.,* 41 Md. App. 579, 619-22 (1979), *rev'd on other grounds*, 286 Md. 714 (1980).

For these reasons, MDC urges an unfavorable report on HB 466.

Sincerely,

/s/ Joseph S. Johnston
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on behalf of Maryland Defense Counsel, Inc.