

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 21-1188

BY REPRESENTATIVE(S) Kennedy, Woodrow;  
also SENATOR(S) Gonzales.

CONCERNING ADDITIONAL LIABILITY OF A DEFENDANT WHO ADMITS  
LIABILITY UNDER RESPONDEAT SUPERIOR.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 13-21-111.5, **add** (1.5)  
as follows:

**13-21-111.5. Civil liability cases - pro rata liability of defendants  
- respondeat superior - shifting financial responsibility for negligence  
in construction agreements - legislative declaration.**

(1.5) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS  
SECTION TO THE CONTRARY, WHEN AN EMPLOYER OR PRINCIPAL  
ACKNOWLEDGES VICARIOUS LIABILITY FOR AN EMPLOYEE'S OR AGENT'S  
NEGLIGENCE, A PLAINTIFF'S DIRECT NEGLIGENCE CLAIMS AGAINST THE  
EMPLOYER OR PRINCIPAL ARE NOT BARRED. A PLAINTIFF MAY BRING SUCH  
CLAIMS, AND CONDUCT ASSOCIATED DISCOVERY, IN ADDITION TO CLAIMS  
AND DISCOVERY BASED ON RESPONDEAT SUPERIOR.

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes  
through words or numbers indicate deletions from existing law and such material is not part of  
the act.*

(b) CONSISTENT WITH CURRENT LAW, NOTHING IN THIS SUBSECTION (1.5) PERMITS A PLAINTIFF TO RECOVER COMPENSATORY AND EXEMPLARY DAMAGES MORE THAN ONCE FOR THE SAME INJURY.

(c) IN ENACTING THIS SUBSECTION (1.5), IT IS THE INTENT OF THE GENERAL ASSEMBLY TO REVERSE THE HOLDING IN *FERRER V. OKBAMICHEL*, 390 P.3d 836 (COLO. 2017), THAT AN EMPLOYER'S ADMISSION OF VICARIOUS LIABILITY FOR ANY NEGLIGENCE OF ITS EMPLOYEES BARS A PLAINTIFF'S DIRECT NEGLIGENCE CLAIMS AGAINST THE EMPLOYER.

**SECTION 2. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to civil actions commenced on or after the applicable effective date of this act.

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Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

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Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_  
(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO