

No. 675, A.]

[Published October 10, 1959.

CHAPTER 523

AN ACT to amend 102.29 (2) of the statutes, relating to the right of action of employers or workmen's compensation insurance companies to recover from liable third parties payments made into the children's death benefit fund or second injury fund.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

102.29 (2) of the statutes is amended to read:

102.29 (2) In the case of liability of the employer or insurer to make payment into the state treasury under * * * s. 102.49 or 102.59, if the injury or death was due to the actionable act, neglect or default of a third party, the employer or insurer shall have a right of action against such third party * * * *to recover the sum so paid into the state treasury, which right may be enforced either by joining in the action mentioned in sub. (1), or by independent action. Contributory negligence of the employe because of whose injury or death such payment was made shall bar recovery if such negligence was as great as the negligence of the person against whom recovery is sought, and the recovery allowed the employer or insurer shall be diminished in proportion to the amount of negligence attributable to such injured or deceased employe.* Any action brought under this subsection may, upon order of the court, be consolidated and tried together with any action brought under sub. (1) * * *.

Approved October 2, 1959.