

Fiscal Estimate - 2005 Session

Original Updated Corrected Supplemental

LRB Number 05-4650/2	Introduction Number AB-1072	
Description Awards to persons suffering damages as the result of medical malpractice and evidence of compensation for those damages		
Fiscal Effect		
State:		
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate		
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
Local:		
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate		
1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected		
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
Affected Ch. 20 Appropriations		
Agency/Prepared By	Authorized Signature	Date
CTS/ Nancy Rottier (608) 267-9733	Nancy Rottier (608) 267-9733	3/7/2006

Fiscal Estimate Narratives

CTS 3/7/2006

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Description Awards to persons suffering damages as the result of medical malpractice and evidence of compensation for those damages					

Assumptions Used in Arriving at Fiscal Estimate

This bill allows evidence of an injured or dead person's obligations of subrogation or reimbursement resulting from collateral source payments to be admitted in a medical malpractice action. The bill also requires the finder of fact (the jury or the judge, if it is a trial to the court) to determine the amount of collateral source payments and the amount the claimant is required to reimburse those sources. The bill allows (rather than requires) the finder of fact to reduce the amount of damages awarded by some or all of the difference between the collateral source payments and the required reimbursement.

An accurate estimate of the additional costs is difficult with the data available. In 2004, the most recent year for which complete figures are available, there were 221 medical malpractice cases filed. While medical malpractice actions are not a large part of the volume of cases, they are among the most complex and time-consuming cases.

The additional information allowed into evidence by this bill and the additional requirements placed on the finder of fact and the judge will likely add to the time required for these actions in the circuit courts. Additional pre-trial hearings and additional trial time will likely be needed. Additional proceedings require additional judge, court reporter, court staff and juror time. These costs are borne by both the state and the county.

It should be noted this bill may have an impact on other public agencies or programs because of its substantive provisions. For instance, there may be a fiscal impact if the claimant is a public employee or if the collateral source is a public program such as Medical Assistance or Medicare. The impact on the circuit courts, however, would be as noted above.

Assembly Substitute Amendment 1 and Assembly Amendment 1 to the substitute were adopted by the State Assembly on March 2, 2006. Assembly Amendment 1 changes one of the elements the finder of fact is required to determine from the "amount that was provided" from collateral sources to the "reasonable value of services" for which any payment was provided from collateral sources. Assembly Substitute Amendment 1 refers to evidence of "the claimant's obligations of subrogation or reimbursement" rather than the original bill's reference to "the injured or dead person's obligations of subrogation or reimbursement."

The fiscal impact on the circuit courts would be similar under both the original bill and the substitute amendment as amended.

Long-Range Fiscal Implications