



2015 SENATE BILL 405

December 3, 2015 - Introduced by Senators KAPENGA, GUDEX, LASEE, LEMAHIEU, STROEBEL and WANGGAARD, cosponsored by Representatives KUGLITSCH, JACQUE, CRAIG, GANNON, KITCHENS, KNODL, KREMER, T. LARSON, MURPHY, ROHRKASTE, SANFELIPPO, SPIROS, STEFFEN, THIESFELDT, TITTL, WEATHERSTON and R. BROOKS. Referred to Committee on Judiciary and Public Safety.

- 1 **AN ACT** *to amend* 908.03 (6m) (bm); and *to create* 901.057 of the statutes;
2 **relating to:** collateral source payments.

Analysis by the Legislative Reference Bureau

This bill affects the admissibility of evidence regarding collateral source payments in certain civil actions.

Under current law, as a general rule in a personal injury case, evidence may not be admitted regarding payments made to compensate a person for injury from persons other than the defendant (collateral source payments). Current law makes an exception and allows evidence of collateral source payments to be admitted for medical malpractice cases and cases involving a personal injury sustained as the result of negligence by a long-term care provider. A separate provision prohibits the admission of evidence of collateral source payments for the purpose of rebutting the presumption that billing statements and invoices that are patient health care records state the reasonable value of the health care services provided to an injured person in all other matters.

The bill allows, for the purpose of determining the reasonable value of any type of personal injury claim or of any action seeking payment for uninsured or underinsured motorist coverage, including the reasonable medical expenses involved in those claims, the fact finder to consider evidence of collateral source payments and evidence of the injured person's obligations of subrogation or reimbursement resulting from those collateral source payments. Under the bill, evidence of amounts paid or incurred by the claimant in recovering a collateral source payment is not admissible. The bill allows the admission of evidence of

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collateral source payments for the purpose of rebutting the presumption that billing statements and invoices that are patient health care records state the reasonable value of the health care services provided to the injured person.

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

1 **SECTION 1.** 901.057 of the statutes is created to read:

2 **901.057 Collateral source payments and rights of subrogation.** In
3 actions for damages caused by personal injury or wrongful death that are not subject
4 to s. 893.55 (7) or 893.555 (8), or seeking payment based on uninsured or
5 underinsured motorists coverage, evidence of any compensation for bodily injury
6 received from a source other than the defendant to compensate the claimant for the
7 injury or to pay for medical expenses incurred by the claimant is admissible for the
8 purpose of determining the reasonable value of the claim, including the reasonable
9 value of the injured person's medical expenses. Evidence of the claimant's
10 obligations of subrogation or reimbursement resulting from payments made by a
11 source other than the defendant to compensate the claimant for injury is admissible.
12 Evidence of amounts paid or incurred by the claimant in recovering a payment from
13 a source other than the defendant is not admissible. Admission of evidence under
14 this section does not limit the substantive or procedural rights of persons who have
15 claims based upon subrogation or lien.

16 **SECTION 2.** 908.03 (6m) (bm) of the statutes is amended to read:

17 **908.03 (6m) (bm) Presumption.** Billing statements or invoices that are patient
18 health care records are presumed to state the reasonable value of the health care
19 services provided and the health care services provided are presumed to be
20 reasonable and necessary to the care of the patient. Any party attempting to rebut

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1 the presumption of the reasonable value of the health care services provided may not
2 present evidence of payments made or benefits conferred by collateral sources.

3 **SECTION 3. Initial applicability.**

4 (1) This act first applies to actions filed on the effective date of this subsection.

5 (END)