

ASSEMBLY BILL 1072 (LRB -4650)

An Act to amend 893.55 (7); and to create 893.55 (8) of the statutes; relating to: awards to persons suffering damages as the result of medical malpractice and evidence of compensation for those damages. (FE)

2006

02-27.	A.	Introduced by Representatives Gielow, Hahn, Hundertmark, Kerkman, Kreibich, F. Lasee, Newcomer, Nischke, Ott, Towns and Vukmir ; cosponsored by Senators S. Fitzgerald, Kedzie, Leibham and Roessler .	
02-27.	A.	Read first time and referred to committee on Insurance	848
02-27.	A.	Public hearing held.	
02-28.	A.	Executive action taken.	
02-28.	A.	Assembly substitute amendment 1 offered by committee on Insurance (LRB s0591)	856
02-28.	A.	Report Assembly Substitute Amendment 1 adoption recommended by committee on Insurance, Ayes 13, Noes 1	858
02-28.	A.	Report passage as amended recommended by committee on Insurance, Ayes 9, Noes 5	858
02-28.	A.	Referred to committee on Rules	858
02-28.	A.	Made a special order of business at 10:19 A.M. on 3-2-2006 pursuant to Assembly Resolution 49	862
03-02.	A.	Read a second time	893
03-02.	A.	Assembly amendment 1 to Assembly substitute amendment 1 offered by Representative Gielow (LRB a2603)	893
03-02.	A.	Assembly amendment 1 to Assembly substitute amendment 1 adopted	893
03-02.	A.	Assembly substitute amendment 1 adopted	893
03-02.	A.	Ordered to a third reading	893
03-02.	A.	Rules suspended	893
03-02.	A.	Read a third time and passed , Ayes 59, Noes 36, Paired 2	893
03-02.	A.	Ordered immediately messaged	893
03-03.	S.	Received from Assembly.	
03-03.	S.	Read first time and referred to committee on Agriculture and Insurance.	
03-06.	S.	Public hearing held.	
03-06.	S.	Executive action taken.	
03-06.	S.	Report concurrence recommended by committee on Agriculture and Insurance, Ayes 4, Noes 3.	
03-06.	S.	Available for scheduling.	
03-06.	S.	Placed on calendar 3-7-2006 by committee on Senate Organization.	
03-07.	S.	Fiscal estimate received.	
03-07.	S.	Placed at the foot of the calendar of 3-7-2006.	
03-07.	S.	Senator Stepp added as a cosponsor.	
03-07.	S.	Read a second time.	
03-07.	S.	Ordered to a third reading.	
03-07.	S.	Rules suspended.	
03-07.	S.	Read a third time and concurrred in , Ayes 19, Noes 14.	
03-07.	S.	Ordered immediately messaged.	
03-09.	A.	Fiscal estimate received.	
03-09.	A.	Received from Senate concurrred in.	

JN

**2005
ENROLLED BILL**

05en A B- 1072

ADOPTED DOCUMENTS:

Orig

Engr

A SubAmdt 1

05 505911

Amendments to above (if none, write "NONE"):

AA1 - 92603/1

Corrections - show date (if none, write "NONE"):

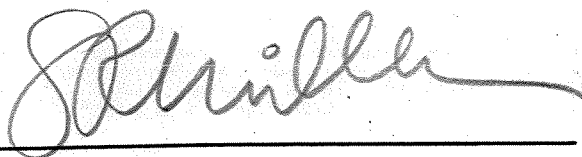
None

Topic

Rel

3/9/06

Date



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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 1072**

February 28, 2006 - Offered by COMMITTEE ON INSURANCE.

- 1 **AN ACT to amend** 893.55 (7); and **to create** 893.55 (8) of the statutes; **relating**
2 **to:** awards to persons suffering damages as the result of medical malpractice
3 and evidence of compensation for those damages.

Analysis by the Legislative Reference Bureau

Under current law, as recently interpreted by the Supreme Court in *Lagerstrom v. Myrtle Werth Hospital-Mayo Health System*, 2005 WI 124 (2005), in a medical malpractice case, evidence of payments made to compensate a person for injury from persons other than the defendant (collateral source payments) are allowed. The court also held that current law permitted the introduction of evidence of the injured person's obligations of subrogation or reimbursement resulting from those collateral source payments for medical services. But, the court held that the obligation evidence can only be used to determine the reasonable value of those medical services, not to reduce the value of those medical services for the purpose of determining the amount of the damage award for those medical services.

This substitute amendment allows the introduction of collateral source payments in a medical malpractice case and the introduction of evidence of the injured person's obligations of subrogation or reimbursement resulting from those collateral source payments. The substitute amendment requires the finder of fact to determine the amount of collateral source payments made to compensate the claimant for the injury resulting from the medical malpractice and the amount that

the claimant is legally obligated to pay the persons who made the collateral source payments. The substitute amendment allows the finder of fact to subtract some or all of the amount the claimant is legally obligated to pay the persons who made the collateral source payments from the amount of those collateral source payments and reduce the amount of damages awarded to the claimant by that difference.

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

1 **SECTION 1.** 893.55 (7) of the statutes is amended to read:

2 893.55 (7) Evidence of any compensation for bodily injury received from
3 sources other than the defendant to compensate the claimant for the injury is
4 admissible in an action to recover damages for medical malpractice. Evidence of the
5 claimant's obligations of subrogation or reimbursement resulting from payments
6 made by sources other than the defendant to compensate the claimant for the injury
7 is admissible in an action to recover damages for medical malpractice. This section
8 does not limit the substantive or procedural rights of persons who have claims based
9 upon subrogation.

10 **SECTION 2.** 893.55 (8) of the statutes is created to read:

11 893.55 (8) (a) If medical malpractice did occur, the finder of fact shall determine
12 all of the following:

INSERT 1

13 1. The ~~amount that~~ was provided from sources other than the defendant to
14 compensate the claimant for the injury resulting from the medical malpractice.

15 2. The amount that the claimant is legally obligated to pay the sources under
16 subd. 1. for the compensation provided by those sources under subd. 1., either
17 through subrogation or by reimbursement.

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 1072**

March 2, 2006 - Offered by Representative GIELOW.



1 At the locations indicated, amend the substitute amendment as follows:

- 2 **1.** Page 2, line 13: delete "amount that" and substitute "reasonable value of
3 services for which any payment".

4 (END)