

2015 DRAFTING REQUEST

Bill

Received: 10/16/2015 Received By: phurley
For: Chris Kapenga (608) 266-9174 Same as LRB: -3778
May Contact: By/Representing: Kyle
Subject: Courts - evidence Drafter: phurley
Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Kapenga@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Collateral source rule changes

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 10/16/2015	jdye 10/19/2015	_____			
/1			_____	mbarman 10/19/2015	mbarman 11/5/2015	

FE Sent For:

↳ Not Needed

<END>



2015 BILL

JW
362711
WJ

2013 ASSEMBLY BILL 29

10-19 PWF

February 18, 2013 - Introduced by Representatives JACQUE, BIES, CRAIG, CZAJA, KESTELL, KUGLITSCH, T. LARSON, MURPHY, SANFELIPPO, SPIROS, THIESFELDT, WEATHERSTON, RIPP and MARKLEIN, cosponsored by Senators FARROW and GROTHMAN. Referred to Committee on Judiciary.

Admissibility of this bill
collateral evidence regarding payments
in certain civil actions

Gen

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

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 collateral source payments for the purpose of rebutting the presumption that billing

ASSEMBLY BILL 29

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

ASSEMBLY BILL 29

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)

Barman, Mike

From: Barman, Mike
Sent: Thursday, October 22, 2015 12:49 PM
To: Sen.Kapenga; Sherman, Jeff
Subject: Requested PDF attached



15-3627_1.pdf

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

Barman, Mike

From: Koenen, Kyle
Sent: Thursday, November 05, 2015 12:53 PM
To: LRB.Legal
Subject: Draft Review: LRB -3627/1

Please Jacket LRB -3627/1 for the SENATE.