

GREEN SHEET REDIGEST

HB 57

2020 First Extraordinary Session

Schexnayder

CIVIL/ACTIONS: Enacts the Civil Justice Reform Act of 2020 (Item #40)

DIGEST

Proposed law creates the Civil Justice Reform Act of 2020.

Jury Trials

Present law (C.C.P. Art. 1732) authorizes a jury trial when the amount in controversy exceeds \$50,000.

Proposed law reduces the threshold for a jury trial to \$10,000.

Present law provides that where a principal demand is commenced in a parish or city court in which the defendant would otherwise be entitled to trial by jury, the defendant may obtain a jury trial by transferring the action to the district court in the manner provided by present law.

Proposed law retains present law and provides that if a party fails to file a motion to transfer within the delays provided by present law, the matter shall not be transferred.

Proposed law further provides that a jury trial shall not be available for non-tort suits originally filed in parish or city court when the amount in controversy does not exceed the parish or city court's jurisdictional limit.

Collateral Source

Proposed law (R.S. 9:2800.25) provides for definitions:

- (1) "Health insurance issuer" means a health insurance coverage through a policy or certificate of insurance subject to regulation of insurance under state law, health maintenance organization, employer sponsored health plan, the office of group benefits, and an equivalent federal or state health plan.
- (2) "Medical provider" means any health care provider, hospital, ambulance service, or their heirs or assignees.
- (3) "Cost sharing" means copayments, coinsurance, deductibles, and any other amounts which have been paid or are owed by the plaintiff.

Proposed law provides that in cases where a plaintiff's medical expenses have been paid, in whole or in part, by a health insurance issuer, Medicaid, or Medicare to a contracted or participating medical provider, the plaintiff's recovery of medical expenses is limited to the amount actually paid to the medical provider by the health insurance issuer, Medicaid, or Medicare and any applicable cost sharing amount paid or owed by the plaintiff, and not the amount billed.

Proposed law provides that when a plaintiff's medical expenses have been paid by a health insurance company or Medicare, plaintiff's recovery of medical expenses is limited to the amount actually paid to the health care provider by the insurer or Medicare, and not the amount billed. Further provides that the recovery for such medical expenses owed is limited to an amount reasonable and customary for the expenses and the determination shall be made by the court post verdict.

Proposed law provides that where a plaintiff's medical expenses are paid pursuant to the Workers' Compensation Law (WCL), recovery of medical expenses is limited to the amount payable under the medical payments fee schedule of the WCL.

Proposed law further provides that in an action where a person suffers injury, death, or loss, the court may receive evidence concerning any amount which has been paid or contributed as of the date it enters judgment, by or on behalf of, the claimant or members of his immediate family to secure his right to any private insurance benefit which he has received as a result of such injury or death.

Evidence of Failure to Wear a Safety Belt

Present law (R.S. 32:295.1(E)) provides that the failure to wear a safety belt in violation of present law shall not be admitted to mitigate damages in any action to recover damages arising out of the ownership, common maintenance, or operation of motor vehicle, and the failure to wear a safety belt in violation of present law shall not be considered evidence of comparative negligence.

Proposed law repeals present law.

Effective Date

Proposed law provides that the provisions of proposed law shall become effective on Jan. 1, 2021, and shall have prospective application only and shall not apply to a cause of action arising from or action pending prior to Jan. 1, 2021.

(Amends C.C.P. Arts. 1732 and 4873(1); Adds R.S. 9:2800.25; Repeals R.S. 32:295.1(E))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove provisions prohibiting the transfer of non-tort suits and requiring the posting of the jury bond.
2. Prohibit a jury trial for suits originally filed in parish or city court, except for tort suits, when the amount in controversy does not exceed the parish or city court's jurisdictional limit.
3. Provide that if a party fails to file a motion to transfer from a parish or city court to district court within the delays provided by law, the matter shall not be transferred.
4. Add that evidence of an agreement to pay medical expenses shall be admissible and provide that the trier of fact may use such evidence to determine, mitigate, or reduce the amount of damages.
5. Add that in a claim for medical expenses, the court shall allow the introduction of all admissible evidence of the payment of medical expenses and that such evidence shall be considered in calculating damages.
6. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Makes technical changes.
2. Removes provisions relative to evidence of medical payments.

3. Provides for provisions relative to recoverable medical expenses, including definitions, terms and conditions, and limitations on recoverable medical expenses.