

2020 Regular Session

HOUSE BILL NO. 597

BY REPRESENTATIVE NELSON

EVIDENCE: Provides for evidence in personal injury claims

1 AN ACT

2 To amend and reenact R.S. 32:295.1(E) and to enact Civil Code Article 2315.11 and Code
3 of Evidence Articles 416 and 607(E), relative to the use of evidence in personal
4 injury claims; to prohibit a presumption of causation in certain circumstances; to
5 provide that evidence of force of impact may be considered to determine the
6 occurrence or nature and extent of injury; to require that certain evidence accompany
7 the testimony of a healthcare provider; to provide for the use of evidence of the
8 failure to wear a safety belt; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Civil Code Article 2315.11 is hereby enacted to read as follows:

11 Art. 2315.11. Presumption of causation of injuries

12 In a claim for personal injury damages that is not raised pursuant to the
13 Louisiana Workers' Compensation Law, the lack of a prior medical history of an
14 illness or injury shall not create a presumption that an illness or injury was caused
15 by the act that is the subject of the claim.

16 Section 2. Code of Evidence Articles 416 and 607(E) are hereby enacted to read as
17 follows:

18 Art. 416. Force of impact

19 In a claim for personal injury damages, evidence of the force of impact may
20 be considered to determine the causation of an injury or the nature and extent of any
21 injuries sustained.

22 * * *

1 Art. 607. Attacking and supporting credibility generally

2 * * *

3 E.(1) In a personal injury claim, a healthcare provider, as defined in Article
4 510, offering evidence on the injuries or required treatment of an injured party shall
5 submit into evidence the amount of any payment anticipated or received on behalf
6 of the injured party for services rendered or testimony provided. Upon request of
7 any party, the healthcare provider shall also introduce into evidence the total amount
8 of payments received in the past five years for testimony provided or services
9 rendered to a party involved in a personal injury case wherein the healthcare provider
10 testified.

11 (2) For purposes of this Paragraph, any payment received by an entity in
12 which an individual healthcare provider has an ownership interest shall be deemed
13 to have been received fully by the healthcare provider individually.

14 Section 3. R.S. 32:295.1(E) is hereby amended and reenacted to read as follows:

15 §295.1. Safety belt use; tags indicating exemption

16 * * *

17 E. In any action to recover damages arising out of the ownership, common
18 maintenance, or operation of a motor vehicle, failure of the injured party to wear a
19 safety belt in violation of this Section shall ~~not be considered evidence of~~
20 ~~comparative negligence. Failure to wear a safety belt in violation of this Section~~
21 ~~shall not be admitted to mitigate damages~~ reduce the damages awarded to the injured
22 party by the amount of the minimum compulsory motor vehicle bodily injury
23 liability security required by R.S. 32:900.

24 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 597 Original

2020 Regular Session

Nelson

Abstract: Eliminates the presumption of causation established by lack of prior medical history, allows for evidence of force of impact to be considered to determine causation and extent of injuries, requires a testifying healthcare provider to offer into evidence payments received for services rendered, and requires that damages be reduced for failure to wear a safety belt.

Proposed law provides that for a personal injury claim that is not raised pursuant to the La. Workers' Compensation Law, the lack of a prior medical history of an illness or injury shall not create a presumption that an illness or injury was caused by the act that is the subject of the claim.

Proposed law provides that in a personal injury claim, evidence of the force of impact may be considered to determine the causation of an injury or the nature and extent of any injuries sustained.

Proposed law provides that in a personal injury claim, a healthcare provider offering evidence on the injuries or required treatment of an injured party shall submit into evidence the amount of any payment anticipated or received on behalf of the injured party for services rendered or testimony provided. Proposed law further provides that upon request of any party, the healthcare provider shall also introduce into evidence the total amount of payments received in the past five years for testimony provided or services rendered to a party involved in a personal injury case wherein the healthcare provider testified. Any payment received by an entity in which an individual healthcare provider has an ownership interest shall be deemed to have been received fully by the healthcare provider individually.

Present law provides that in an action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt shall not be considered evidence of comparative negligence and shall not be admitted to mitigate damages.

Proposed law repeals present law and provides that the failure of an injured party to wear a safety belt shall reduce the damages awarded to the injured party by the amount of minimum bodily injury insurance coverage required by present law.

(Amends R.S. 32:295.1(E); Adds C.C. Art. 2315.11 and C.E. Arts. 416 and 607(E))