

2022 Regular Session

SENATE BILL NO. 120

BY SENATOR TALBOT

CIVIL PROCEDURE. Provides relative to the payment of certain expenses in personal injury claims. (8/1/22).

1 AN ACT

2 To enact Code of Evidence Article 607(E), R.S. 9:2800.28, and R.S. 13:4212, relative to the

3 payment of certain expenses in a personal injury claim; to require a testifying

4 medical professional to submit evidence of certain amounts received; to provide for

5 the payment of medical expenses; to require a claimant to present invoices for

6 outstanding medical and related expenses; to provide for the payment of future

7 medical and related expenses; to require the use of a reversionary trust in certain

8 circumstances; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Evidence Article 607(E) is hereby enacted to read as follows:

11 Art. 607. Attacking and supporting credibility generally

12 * * *

13 **E.(1) In a personal injury claim, a healthcare provider, as defined in**

14 **Article 510, offering evidence on the injuries or required treatment of an**

15 **injured party shall submit the following into evidence:**

16 **(a) The amount of any payment anticipated or received on behalf of the**

17 **injured party for services rendered or testimony provided.**

1 **(b) The total amount of payments received in the previous four years for**
2 **testimony provided or services rendered to a party involved in a personal injury**
3 **case wherein the healthcare provider testified.**

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

7 Section 2. R.S. 9:2800.28 is hereby enacted to read as follows:

8 **§2800.28. Payment of medical expenses; personal injury; liability**

9 **A. When an injured person makes written demand on another seeking**
10 **reimbursement of medical and related expenses incurred due to personal injury,**
11 **the injured person shall present to the person upon whom demand is made all**
12 **invoices for medical and related expenses received or outstanding on or after**
13 **the date demand is made. The adverse party may make payment directly to the**
14 **invoicing medical provider within sixty days of the receipt of the invoice. If the**
15 **adverse party does not make payment within sixty days, the injured person may**
16 **thereafter make payment.**

17 **B. Any payment made pursuant to this Section shall not be an admission**
18 **of liability.**

19 Section 3. R.S. 13:4212 is hereby enacted to read as follows:

20 **§4212. Reversionary trust**

21 **A. If a party is held liable for damages for personal injury and the court**
22 **determines that the claimant is in need of future medical and related benefits**
23 **in the amount of at least fifty thousand dollars, the court shall order that the**
24 **amount due for future medical care and related benefits be paid through a**
25 **reversionary medical trust.**

26 **B. The trust shall be established by the liable party and administered for**
27 **the benefit of claimants entitled to medical care and related benefits that may**
28 **be incurred subsequent to judgment. Amounts due for medical care and related**
29 **benefits shall be paid from the reversionary medical trust directly to the**

1 provider as they are incurred. In submitting requests for payment, the claimant
2 shall submit the original invoices.

3 C. The trustee shall review all invoices received for future medical care
4 and related benefits, prepare vouchers or warrants, and evaluate and settle
5 claims related to the payment of future medical care and related benefits. The
6 trustee shall have the same fiduciary duties as imposed upon a trustee by the
7 Louisiana Trust Code.

8 D. Upon the death of the claimant or upon the termination of the trust
9 as provided in the trust instrument, any funds remaining in the reversionary
10 trust shall revert to the party that established the trust.

11 E. No provision of this Section shall limit the rights of claimants to
12 contract with respect to attorney fees and costs.

13 F. "Reversionary medical trust" means a trust established for the
14 exclusive benefit of the claimant to pay the medical care and related benefits as
15 they accrue, including without limitation reasonable and necessary amounts for
16 all diagnosis, cure, mitigation, or treatment of any disease or condition from
17 which the injured person suffers as a result of the injuries, and the sequelae
18 thereof, sustained by the claimant on the date the injury was sustained.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Lebra R. Bias.

DIGEST

SB 120 Original 2022 Regular Session Talbot

Proposed law requires that in a personal injury claim, a healthcare provider offering evidence on the injuries or required treatment of an injured party submit into evidence the amount of any payment anticipated or received on behalf of the injured party for services rendered or testimony provided and the total amount of payments received in the previous four years for testimony provided or services rendered to a party involved in a personal injury case wherein the healthcare provider testified.

Proposed law further provides that 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.

Proposed law provides that when an injured person makes written demand on another seeking reimbursement of medical and related expenses incurred due to personal injury, the injured person shall present all invoices for medical and related expenses received or outstanding on or after the date demand is made.

Proposed law allows the adverse party to make payment directly to the invoicing medical provider within 60 days of the receipt of the invoice. If the adverse party does not make payment within 60 days, the injured person may thereafter make payment.

Proposed law further provides that any payment made by the adverse party shall not be an admission of liability.

Proposed law requires the use of a reversionary medical trust for the payment of future medical and related expenses in the amount of \$50,000 or greater. Proposed law defines "reversionary medical trust".

Proposed law requires that the liable party establish the trust and the claimant shall submit original invoices, which the trustee shall review for payment. The trustee shall also prepare vouchers or warrants and evaluate and settle claims related to the payment of future medical care and related benefits. The trustee shall have the same fiduciary duties as imposed upon a trustee by the Louisiana Trust Code.

Proposed law provides that upon the death of the claimant or upon the termination of the trust as provided in the trust instrument, any funds remaining in the reversionary trust shall revert to the party that established the trust.

Proposed law does not limit a claimant's ability to contract with respect to attorney fees and costs.

Effective August 1, 2022.

(Adds C.E. Art. 607(E), R.S. 9:2800.28, and R.S. 13:4212)