

HCS HB 2107 -- COLLATERAL SOURCE RULE

SPONSOR: McGaugh

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 8 to 3. Voted "Do Pass with HCS" by the Select Committee on Judiciary by a vote of 5 to 3.

This bill specifies that special damages claimed by the plaintiff at trial that have been satisfied by a payment from a defendant, the defendant's insurer, or authorized representative prior to trial are not recoverable. The defendant is entitled to deduct such payments towards special damages from any judgment as provided in current law.

Parties may introduce evidence of the actual cost, rather than the value, of the medical care or treatment to the plaintiff. The bill repeals a provision of law which provides that there is a rebuttable presumption that the value of the medical treatment provided is represented by the dollar amount necessary to satisfy the financial obligation to the health care provider. The actual cost of the medical care or treatment cannot exceed the dollar amounts paid by or on behalf of a patient whose care is at issue plus any remaining amount necessary to satisfy the financial obligation for medical care by a health care provider after adjustment for any contractual discounts, or price reduction.

PROPOSERS: Supporters say that both parties can introduce evidence of the cost of care rendered, however any cost cannot exceed any dollar amounts paid or owed by the plaintiff for the treatment. This bill simplifies the definition and makes it clear what evidence will be allowed and ensures that what is awarded to a plaintiff is what is actually paid, or will actually have to be paid, for that medical care. This is all about making sure the plaintiff is made whole, and the plaintiff is not receiving amounts in excess of their actual damages.

Testifying for the bill were Representative McGaugh; Rachael Hill, Healthcare Services Group; Washington University; Associated Industries Of Missouri; The Doctors Company; Missouri Chamber Of Commerce and Industry; Missouri State Medical Association; Missouri Petroleum Council -- A Division Of The American Petroleum Institute; and the Missouri Retailers Association.

OPPOSERS: Those who oppose the bill say that this is another attack on the collateral source doctrine, which has been in place since 1854. The purpose of that law is that we do not reward a negligent wrongdoer when the plaintiff has insurance.

Testifying against the bill was Jay Benson, Missouri Association Of Trial Attorneys.