

HOUSE BILL 91

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D3

1999 Regular Session
(91r0961)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Dembrow and Flanagan**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Personal Injury Claims - Subrogation - Reduction**

3 FOR the purpose of requiring that the amount for which certain persons have a right
4 of subrogation for health care benefits or services paid or payable on behalf of an
5 injured person be reduced by a certain amount related to the amount of
6 attorney's fees incurred by the injured person in a personal injury claim under
7 certain circumstances; specifying that a payor has no obligation to advise the
8 injured person of the right to a certain reduction of a subrogation claim;
9 requiring an injured person to provide a certain certification concerning
10 attorney's fees incurred by the injured person under certain circumstances;
11 providing for the application of this Act; defining a certain term; and generally
12 relating to a requirement that the amount of a person's right of subrogation for
13 health care benefits or services paid or payable to an injured person be reduced
14 under certain circumstances.

15 BY adding to
16 Article - Courts and Judicial Proceedings

1 Section 11-112
2 Annotated Code of Maryland
3 (1998 Replacement Volume)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Courts and Judicial Proceedings**

7 11-112.

8 (A) IN THIS SECTION, "PAYOR" HAS THE SAME MEANING STATED IN § 19-1501
9 OF THE HEALTH - GENERAL ARTICLE.

10 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
11 SECTION APPLIES TO ANY RIGHT OF SUBROGATION UNDER A CONTRACT OR
12 APPLICABLE LAW FOR PAYMENT OF HEALTH CARE BENEFITS OR SERVICES FOR AN
13 INJURED PERSON PAID OR PAYABLE BY A PAYOR UNDER A POLICY OF HEALTH
14 INSURANCE, AS DEFINED IN § 1-101 OF THE INSURANCE ARTICLE, OR UNDER ANY
15 SYSTEM OF SELF-INSURANCE OR INDEMNIFICATION FOR HEALTH CARE EXPENSES,
16 IF THE AMOUNT OF THE SUBROGEE'S CLAIM AS DETERMINED UNDER SUBSECTION
17 (C) OF THIS SECTION IS VOLUNTARILY PAID BY THE INJURED PERSON FROM THE
18 INJURED PERSON'S RECOVERY IN A CLAIM FOR PERSONAL INJURY.

19 (2) THIS SECTION DOES NOT APPLY TO A VOLUNTARY REDUCTION OF A
20 SUBROGATION CLAIM BY A PAYOR THAT EXCEEDS THE REDUCTION OF THE
21 SUBROGATION CLAIM DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

22 (C) (1) ~~UNLESS A SUBROGEE APPEARS, IN PERSON OR BY ITS ATTORNEY, IN~~
23 ~~AN ACTION FOR PERSONAL INJURY, UNLESS A SUBROGEE FILES A PETITION TO~~
24 ~~INTERVENE IN THE PERSONAL INJURY ACTION AND IS INDEPENDENTLY~~
25 ~~REPRESENTED BY COUNSEL,~~ IN A SUBROGATION CLAIM ARISING OUT OF A CLAIM
26 FOR PERSONAL INJURY, THE AMOUNT PERMITTED TO BE RECOVERED BY A PAYOR
27 FOR HEALTH CARE BENEFITS OR SERVICES PAID OR PAYABLE ON BEHALF OF THE
28 INJURED PERSON SHALL BE REDUCED BY THE AMOUNT THAT IS DETERMINED BY:

29 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, DIVIDING
30 THE AMOUNT OF THE TOTAL RECOVERY IN THE CLAIM FOR PERSONAL INJURY INTO
31 THE TOTAL AMOUNT OF THE ATTORNEY'S FEES INCURRED BY THE INJURED PERSON
32 FOR SERVICES RENDERED IN CONNECTION WITH THE INJURED PERSON'S CLAIM;
33 AND

34 (II) MULTIPLYING THE RESULT UNDER SUBPARAGRAPH (I) OF THIS
35 PARAGRAPH BY THE AMOUNT OF THE PAYOR'S SUBROGATION CLAIM.

36 (2) THE PERCENTAGE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION
37 MAY NOT EXCEED ONE-THIRD.

1 (D) A PAYOR HAS NO OBLIGATION TO ADVISE AN INJURED PERSON OR AN
2 ATTORNEY FOR THE INJURED PERSON OF THE INJURED PERSON'S RIGHT TO A
3 REDUCTION OF THE SUBROGATION CLAIM DESCRIBED IN SUBSECTION (C) OF THIS
4 SECTION.

5 (E) ON WRITTEN REQUEST BY A PAYOR, AN INJURED PERSON OR AN
6 ATTORNEY FOR THE INJURED PERSON WHO DEMANDS A REDUCTION OF THE
7 SUBROGATION CLAIM DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL
8 PROVIDE THE PAYOR WITH A CERTIFICATION BY THE INJURED PERSON THAT
9 STATES THE AMOUNT OF THE ATTORNEY'S FEES INCURRED BY THE INJURED
10 PERSON FOR SERVICES RENDERED IN CONNECTION WITH THE INJURED PERSON'S
11 CLAIM.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed only prospectively and may not be applied or interpreted to have any effect
14 on or application to any recovery by an injured person before the effective date of this
15 Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1999.