

By Senator Massullo

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1                   A bill to be entitled  
2       An act relating to admissible evidence in personal  
3       injury or wrongful death actions; amending s.  
4       768.0427, F.S.; providing that evidence admissible in  
5       personal injury or wrongful death actions may be used  
6       for rebutting, as well as for proving, the amount of  
7       certain damages; providing that such evidence may be  
8       offered by any party; revising construction; providing  
9       applicability and legislative intent; providing an  
10      effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

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14       Section 1. Subsection (2) of section 768.0427, Florida  
15       Statutes, is amended to read:

16       768.0427 Admissibility of evidence to prove medical  
17       expenses in personal injury or wrongful death actions;  
18       disclosure of letters of protection; recovery of past and future  
19       medical expenses damages.—

20       (2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE  
21       EXPENSES.—Evidence offered to prove or rebut the amount of  
22       damages for past or future medical treatment or services in a  
23       personal injury or wrongful death action is admissible as  
24       follows: ~~provided in this subsection.~~

25       (a) Evidence offered to prove the amount of damages for  
26       past medical treatment or services that have been satisfied is  
27       limited to evidence of the amount actually paid, regardless of  
28       the source of payment.

29       (b) Evidence any party may offer ~~offered~~ to prove or rebut

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30 the amount necessary to satisfy unpaid charges for incurred  
31 medical treatment or services includes ~~shall include~~, but is not  
32 limited to, evidence as provided in this paragraph.

33 1. If the claimant has health care coverage other than  
34 Medicare or Medicaid, evidence of the amount ~~which~~ such health  
35 care coverage is obligated to pay the health care provider to  
36 satisfy the charges for the claimant's incurred medical  
37 treatment or services, plus the claimant's share of medical  
38 expenses under the insurance contract or regulation.

39 2. If the claimant has health care coverage but obtains  
40 treatment under a letter of protection or otherwise does not  
41 submit charges for any health care provider's medical treatment  
42 or services to health care coverage, evidence of the amount the  
43 claimant's health care coverage would pay the health care  
44 provider to satisfy the past unpaid medical charges under the  
45 insurance contract or regulation, plus the claimant's share of  
46 medical expenses under the insurance contract or regulation, had  
47 the claimant obtained medical services or treatment pursuant to  
48 the health care coverage.

49 3. If the claimant does not have health care coverage or  
50 has health care coverage through Medicare or Medicaid, evidence  
51 of 120 percent of the Medicare reimbursement rate in effect on  
52 the date of the claimant's incurred medical treatment or  
53 services, or, if there is no applicable Medicare rate for a  
54 service, 170 percent of the applicable state Medicaid rate.

55 4. If the claimant obtains medical treatment or services  
56 under a letter of protection and the health care provider  
57 subsequently transfers the right to receive payment under the  
58 letter of protection to a third party, evidence of the amount

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59 the third party paid or agreed to pay the health care provider  
60 in exchange for the right to receive payment pursuant to the  
61 letter of protection.

62 5. Any evidence of reasonable amounts billed to the  
63 claimant for medically necessary treatment or medically  
64 necessary services provided to the claimant.

65 (c) Evidence any party may offer ~~offered~~ to prove or rebut  
66 the amount of damages for any future medical treatment or  
67 services the claimant will receive includes ~~shall include~~, but  
68 is not limited to, evidence as provided in this paragraph.

69 1. If the claimant has health care coverage other than  
70 Medicare or Medicaid, or is eligible for any such health care  
71 coverage, evidence of the amount for which the future charges of  
72 health care providers could be satisfied if submitted to such  
73 health care coverage, plus the claimant's share of medical  
74 expenses under the insurance contract or regulation.

75 2. If the claimant does not have health care coverage or  
76 has health care coverage through Medicare or Medicaid, or is  
77 eligible for such health care coverage, evidence of 120 percent  
78 of the Medicare reimbursement rate in effect at the time of  
79 trial for the medical treatment or services the claimant will  
80 receive, or, if there is no applicable Medicare rate for a  
81 service, 170 percent of the applicable state Medicaid rate.

82 3. Any evidence of reasonable future amounts to be billed  
83 to the claimant for medically necessary treatment or medically  
84 necessary services.

85 (d) This subsection does not impose an affirmative duty  
86 upon any party to offer any specific evidence made admissible by  
87 this subsection or to seek a reduction in billed charges to

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88 which the party is not contractually entitled.

89 (e) Individual contracts between providers and authorized  
90 commercial insurers or authorized health maintenance  
91 organizations are not subject to discovery or disclosure and are  
92 not admissible into evidence.

93 Section 2. The amendments made by this act to s.  
94 768.0427(2), Florida Statutes, apply to all causes of action to  
95 which that subsection applies and are intended to clarify and  
96 not materially alter that subsection.

97 Section 3. This act shall take effect July 1, 2026.