The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST

SB 29 Original | 2020 First Extraordinary Session | McMath

Present law (C.C.P. Art. 1732) authorizes a jury trial when the amount in controversy exceeds $50,000.

Proposed law reduces the threshold for a jury trial to $25,000, except that a suit for damages arising from an offense or quasi-offense that exceeds $10,000 may be tried by jury if a party requests a jury trial and posts a cash deposit of at least $20,000 for costs of the trial no later than 60 days after making the request.

Proposed law (R.S. 9:2800.25) provides for definitions:

(1) "Health insurance issuer" means Medicare, Medicaid, an entity issuing policies under the Employee Retirement Income Security Act (ERISA), and any entity that offers health insurance coverage through a policy or certificate of insurance subject to state law that regulates the business of insurance, including a health maintenance organization, federal or nonfederal governmental plan, and the office of group benefits.

(2) "Medical provider" means any health care provider, hospital, ambulance service, or their heirs or assignees.

(3) "Contracted health care provider" means any in-network medical provider that has entered into a contract or agreement directly with a health insurance issuer or with a health insurance issuer through a network of providers for the provision of covered health care services at a pre-negotiated rate.

(4) "Case" means a quasi-delictual or delictual action where a person suffers injury, death, or loss.

(5) "Cost sharing amount" shall mean any co-pay, deductible, or any other amount paid or owed to a medical provider by or on behalf of the claimant.

Proposed law provides that in a case where a claimant's medical expenses have been paid, in whole or in part, by a health insurance issuer to a contracted health care provider, or pursuant to the La. Workers' Compensation Law, recovery of the medical expenses so paid is limited to one and a quarter times the amount actually paid to the medical provider by the health insurance issuer or compensation payor and any cost sharing amounts that were paid or are owed by or on behalf of the claimant, or the amount actually billed, whichever is less. In cases brought pursuant to the Louisiana medical malpractice law, where a claimant's medical expenses have been paid, in whole or in part, by a health insurance issuer to a contracted health care provider, recovery of the medical expenses

so paid is limited to one and a quarter times the amount actually paid to the medical provider by the health insurance issuer and any cost sharing amounts that were paid or are owed by or on behalf of the claimant, plus 15%, or the amount actually billed, whichever is less. In all other cases, and for all medical expenses not actually paid by a health insurance issuer to a contracted health care provider, the claimant may recover the medical expenses billed that were paid without condition or under protest or that are owed, in the amount claimed, by or on behalf of the claimant, including but not limited to any amount secured by a contractual or statutory privilege, lien, or guarantee.

Proposed law further provides that its provisions are not applicable to the right to recover damages for future medical treatment, services, surveillance, or procedures of any kind.

Proposed law also provides that its provisions are not applicable to cases brought pursuant to the malpractice liability for state services law, or the Louisiana Governmental Claims Act.

Proposed law further provides that whether any person has paid or has agreed to pay, in whole or in part, any of a claimant's medical expenses, shall not be disclosed to the jury. The jury shall be informed only of the amount actually billed by medical providers for claimant's medical treatment. If any reduction of the amount of past medical expenses awarded by the jury is required by proposed law, this reduction shall be made by the court after trial.

Present law (R.S. 32:295.1(E)) provides that the failure to wear a safety belt in violation of present law shall not be admitted to mitigate damages in any action to recover damages arising out of the ownership, common maintenance, or operation of motor vehicle, and the failure to wear a safety belt in violation of present law shall not be considered evidence of comparative negligence.

Proposed law repeals this provision.

Proposed law provides that its provisions shall have prospective application only and shall not apply to a cause of action arising or action pending prior to the effective date of proposed law.

Effective January 1, 2021.

(Amends C.C.P. Arts. 1732 and 1733(A); adds R.S. 9:2800.25; repeals R.S. 32:295.1(E))