

1 **§55-7-26. Reduction in compensatory damages for collateral source**
2 **payments.**

3 Notwithstanding any other provision of this code, in all tort
4 actions, regardless of the theory of liability under which they are
5 commenced, the total amount of compensatory damages awarded to a
6 plaintiff under an action shall be reduced, in accordance with
7 section twenty-seven of this article, by any collateral source
8 payments made or to be made to the plaintiff, or plaintiff's
9 decedent, except insurance for which the plaintiff, spouse of the
10 plaintiff, or parent of the plaintiff, or plaintiff's decedent, has
11 paid a premium, insurance that is subject to a right of
12 subrogation, workers' compensation benefits that are subject to a
13 right of subrogation, or insurance that has any other obligation of
14 repayment: *Provided*, That the provisions of this section do not
15 apply in those actions where a defendant's actions constitute
16 criminal conduct which is the proximate cause of the damages
17 suffered by the plaintiff or plaintiff's decedent.

18 As used in this section:

19 (a) "Collateral source" means: (1) The United States Social
20 Security Act, as amended; (2) any state or federal disability,
21 workers' compensation, or other act designed to provide income
22 replacement, medical, or other benefits; (3) any accident, health
23 or sickness, income or wage replacement insurance, income

1 disability insurance, casualty or property insurance (including
2 automobile and homeowners' insurance,) or any other insurance
3 except life insurance; (4) any contract or agreement of any group,
4 organization, partnership, or corporation to provide, pay for, or
5 reimburse the cost of medical, hospital, dental, or other health
6 care services or provide similar benefits; or (5) any contractual
7 or voluntary wage continuation plan provided by an employer or
8 otherwise, or any other system intended to provide wages during a
9 period of disability.

10 (b) "Collateral source payments" means money paid or payable
11 by collateral sources for losses or expenses, including, but not
12 limited to, property damage, wage loss, medical costs,
13 rehabilitation costs, services, and other costs incurred by or on
14 behalf of a plaintiff for which that plaintiff is claiming recovery
15 through a tort action commenced in any of the courts in this state.

16 **§55-7-27. Postverdict determination of reduction in compensatory**
17 **damages.**

18 The reduction in compensatory damages required under section
19 twenty-six of this article shall be determined by the court after
20 the verdict and before judgment is entered. Reduction may be made
21 only if the collateral source payments are compensation for the
22 same damages for which recovery is sought in the action. A
23 plaintiff who has received or is to receive collateral source

1 payments may introduce evidence before the court, but not at trial,
2 of any of the following: (a) Any amount which the plaintiff has
3 paid or contributed to secure his or her right to any collateral
4 source payments; (b) that any recovery by the plaintiff is subject
5 to a lien by a collateral source; (c) that a provider of any
6 collateral source payments has a statutory right of recovery
7 against the plaintiff for reimbursement of such payments; or (d)
8 that the provider of any collateral source payments has a right of
9 subrogation to the rights of the plaintiff.

10 After considering the evidence of collateral source introduced
11 by any party, the court shall make a determination as to the amount
12 by which a plaintiff's compensatory damages will be reduced by any
13 collateral source payments.

NOTE: The purpose of this bill is to provide that judgment awards in tort actions be reduced by the amount of certain collateral source benefits received by the claimant or to which the claimant is entitled. Actions where the defendant's actions constitute criminal conduct are exempted.

These sections are new; therefore, strike-throughs and underscoring have been omitted.