

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2656

BY DELEGATES WESTFALL, LANE, C., FOSTER, N., FRICH

AND WHITE

[Introduced February 22, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §57-5-4j of the Code of West Virginia, 1931, as amended, relating
 2 to compensatory damage awards arising out of charges for medical, hospital and doctor
 3 services or treatment.

Be it enacted by the Legislature of West Virginia:

1 That §57-5-4j of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§57-5-4j. Hospital records; evidence of reasonableness of medical expenses.

1 (a) Proof that medical, hospital and doctor bills were paid or incurred because of any
 2 illness, disease or injury shall be prima facie evidence that such bills so paid or incurred were
 3 necessary and reasonable up to the amount actually paid. To the extent that charges for medical,
 4 hospital and doctor services or treatment were satisfied by way of discount, reduction or write-off
 5 and not paid, proof of the charges incurred, but not paid, may not be used to establish the
 6 necessity or reasonableness of medical expenses.

7 (b) Evidence offered regarding the cost or value of any future medical expenses claimed
 8 by the injured person is limited to evidence of those sums that will be sufficient to provide for any
 9 future necessary and reasonable health care services or treatment for the injured person.

10 (c) The Legislature declares that the purpose of this section is to abrogate the common-
 11 law collateral source rule in determining the sums recoverable by injured persons as damages for
 12 medical expenses and to prevent compensatory damage awards for the value of reasonable and
 13 necessary health care services from exceeding the sums accepted by the health care service
 14 provider for treating the injured party.

15 (d) The Legislature further declares that the decision of the Supreme Court of Appeals of
 16 West Virginia in Kenney v. Liston, Case No. 13-0427 (W. Va. June 4, 2014) is contrary to the
 17 Legislature’s intent and shall be deemed overruled by the enactment of this statute.

NOTE: The purpose of this bill is to enable the trier of fact in a personal injury or wrongful death action to determine the actual amount of the prevailing party's pecuniary loss and to have judgment awards in tort actions be reduced by the amount of certain collateral source payments or benefits received by the plaintiff or to which the plaintiff is entitled provided that such collateral source payments are for the same damages for which recovery is sought in the action.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.