



# House of Representatives

General Assembly

**File No. 549**

February Session, 2012

Substitute House Bill No. 5545

*House of Representatives, April 19, 2012*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND EVIDENCE OF BILLS FROM TREATING HEALTHCARE PROVIDERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) Except as provided in  
2 subsection (b) of this section and subject to the provisions of sections  
3 19a-177, 38a-498 and 38a-525 of the general statutes, any person who  
4 receives emergency medical treatment services or transportation  
5 services from a licensed ambulance service or certified ambulance  
6 service shall be liable to such ambulance service for the reasonable and  
7 necessary costs of providing such services, irrespective of whether  
8 such person agreed or consented to such liability.

9 (b) The provisions of this section shall not apply to any person who  
10 receives emergency medical treatment services or transportation  
11 services from a licensed ambulance service or certified ambulance  
12 service for an injury arising out of and in the course of his employment  
13 as defined in section 31-275 of the general statutes.

14 Sec. 2. Subsection (b) of section 52-225a of the general statutes is  
15 repealed and the following is substituted in lieu thereof (*Effective*  
16 *October 1, 2012, and applicable to actions filed on or after said date*):

17 (b) Upon a finding of liability and an awarding of damages by the  
18 trier of fact and before the court enters judgment, the court shall  
19 receive evidence from the claimant and other appropriate persons  
20 concerning the total amount of collateral sources which have been paid  
21 for the benefit of the claimant as of the date the court enters judgment.  
22 For purposes of this section, evidence that a physician or physician  
23 assistant licensed under chapter 370, dentist licensed under chapter  
24 379, chiropractor licensed under chapter 372, natureopath licensed  
25 under chapter 373, physical therapist licensed under chapter 376,  
26 podiatrist licensed under chapter 375, psychologist licensed under  
27 chapter 383, an emergency medical technician certified under chapter  
28 368d, optometrist licensed under chapter 380 or advanced practice  
29 registered nurse licensed under chapter 378, accepted an amount less  
30 than the total amount of any bill generated by such physician,  
31 physician assistant, dentist, chiropractor, natureopath, physical  
32 therapist, podiatrist, psychologist, emergency medical technician,  
33 optometrist or advanced practice registered nurse, or evidence that an  
34 insurer paid less than the total amount of any bill generated by such  
35 physician, physician assistant, dentist, chiropractor, natureopath,  
36 physical therapist, podiatrist, psychologist, emergency medical  
37 technician, optometrist or advanced practice registered nurse, shall be  
38 admissible as evidence of the total amount of collateral sources which  
39 have been paid for the benefit of the claimant as of the date the court  
40 enters judgment.

41 Sec. 3. Subsections (a) and (b) of section 52-174 of the general  
42 statutes are repealed and the following is substituted in lieu thereof  
43 (*Effective October 1, 2012*):

44 (a) In all actions for the recovery of damages for personal injuries or  
45 death, (1) if a physician licensed under chapter 370, dentist licensed  
46 under chapter 379, chiropractor licensed under chapter 372,

47 natureopath licensed under chapter 373, physical therapist licensed  
48 under chapter 376, podiatrist licensed under chapter 375, psychologist  
49 licensed under chapter 383, emergency medical technician certified  
50 under chapter 368d, optometrist licensed under chapter 380, physician  
51 assistant licensed under chapter 370, advanced practice registered  
52 nurse licensed under chapter 378, professional engineer licensed under  
53 chapter 391 or land surveyor licensed under chapter 391 has died prior  
54 to the trial of the action, or (2) if [a] such physician, dentist,  
55 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
56 emergency medical technician, optometrist, physician assistant,  
57 advanced practice registered nurse, professional engineer or land  
58 surveyor is physically or mentally disabled at the time of the trial of  
59 the action to such an extent that such person is no longer actively  
60 engaged in the practice of the profession, the party desiring to offer  
61 into evidence the written records and reports of the physician, dentist,  
62 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
63 emergency medical technician, optometrist, physician assistant or  
64 advanced practice registered nurse concerning the patient who  
65 suffered the injuries or death, or the reports and scale drawings of the  
66 professional engineer or land surveyor concerning matters relevant to  
67 the circumstances under which the injuries or death was sustained  
68 shall apply to the court in which the action is pending for permission  
69 to introduce the evidence. Notice of the application shall be served on  
70 the adverse party in the same manner as any other pleading. The court  
71 to which the application is made shall determine whether the person is  
72 disabled to the extent that the person cannot testify in person in the  
73 action. Upon the court finding that the person is so disabled, the  
74 matters shall be admissible in evidence as a business entry in  
75 accordance with the provisions of section 52-180 when offered by any  
76 party in the trial of the action.

77 (b) In all actions for the recovery of damages for personal injuries or  
78 death, pending on October 1, 1977, or brought thereafter, and in all  
79 court proceedings in family relations matters, as defined in section  
80 46b-1, or in the Family Support Magistrate Division, pending on  
81 October 1, 1998, or brought thereafter, and in all other civil actions

82 pending on October 1, 2001, or brought thereafter, any party offering  
83 in evidence a signed report and bill for treatment of any treating  
84 [physician, dentist, chiropractor, natureopath, physical therapist,  
85 podiatrist, psychologist, emergency medical technician, optometrist,  
86 physician assistant or advanced practice registered nurse] physician or  
87 physician assistant licensed under chapter 370, dentist licensed under  
88 chapter 379, chiropractor licensed under chapter 372, natureopath  
89 licensed under chapter 373, physical therapist licensed under chapter  
90 376, podiatrist licensed under chapter 375, psychologist licensed under  
91 chapter 383, an emergency medical technician certified under chapter  
92 368d, optometrist licensed under chapter 380 or advanced practice  
93 registered nurse licensed under chapter 378, may have the report and  
94 bill admitted into evidence as a business entry and it shall be  
95 presumed that the signature on the report is that of [the] such treating  
96 physician, physician assistant, dentist, chiropractor, natureopath,  
97 physical therapist, podiatrist, psychologist, emergency medical  
98 technician, optometrist [, physician assistant] or advanced practice  
99 registered nurse and that the report and bill were made in the ordinary  
100 course of business. The use of any such report or bill in lieu of the  
101 testimony of such treating physician, physician assistant, dentist,  
102 chiropractor, natureopath, physical therapist, podiatrist, psychologist,  
103 emergency medical technician, optometrist [, physician assistant] or  
104 advanced practice registered nurse shall not give rise to any adverse  
105 inference concerning the testimony or lack of testimony of such  
106 treating physician, physician assistant, dentist, chiropractor,  
107 natureopath, physical therapist, podiatrist, psychologist, emergency  
108 medical technician, optometrist [, physician assistant] or advanced  
109 practice registered nurse. In any action to which this section applies,  
110 the total amount of any bill generated by such physician, physician  
111 assistant, dentist, chiropractor, natureopath, physical therapist,  
112 podiatrist, psychologist, emergency medical technician, optometrist or  
113 advanced practice registered nurse shall be admissible in evidence on  
114 the issue of the cost of reasonable and necessary medical care. The  
115 calculation of the total amount of the bill shall not be reduced because  
116 such physician, physician assistant, dentist, chiropractor, natureopath,

117 physical therapist, podiatrist, psychologist, emergency medical  
118 technician, optometrist or advanced practice registered nurse accepts  
119 less than the total amount of the bill or because an insurer pays less  
120 than the total amount of the bill.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012, and applicable to actions filed on or after said date</i>	52-225a(b)
Sec. 3	<i>October 1, 2012</i>	52-174(a) and (b)

**Statement of Legislative Commissioners:**

In section 3, subsection (a) of section 52-174 was added to the bill so that technical changes that conform to the changes in subsection (b) could be made.

**JUD**      *Joint Favorable Subst.*

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill does not result in a fiscal impact as it involves privately contracted ambulance services.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis****sHB 5545*****AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND EVIDENCE OF BILLS FROM TREATING HEALTHCARE PROVIDERS.*****SUMMARY:**

This bill generally provides that anyone who receives emergency medical treatment or transportation services from a licensed or certified ambulance service is liable for the reasonable and necessary cost of those services, even if the person did not agree or consent to such liability.

Under the bill, this provision is subject to certain conditions in existing law, including the Department of Public Health (DPH) commissioner's rate setting for ambulance services and requirements that insurers cover medically necessary ambulance services. Also, the provision does not apply to anyone receiving ambulance services for injuries arising out of and in the course of their employment, as defined in the worker's compensation law (see BACKGROUND).

The bill also makes changes to the law regarding how economic damages are determined in personal injury or wrongful death cases. It provides that evidence that a specified health care provider accepted payment from a claimant that is less than the total amount billed, or evidence that an insurer paid less than that total amount, is admissible for purposes of the collateral source rule (the requirement that courts reduce economic damage awards by the amount the claimant received from health insurance or other collateral sources).

The bill also provides that, in cases in which the law allows such health care providers' reports, bills, and records to be introduced as

business entry evidence without the provider testifying (see BACKGROUND), the total amount of the provider's bill is admissible evidence of the cost of reasonable and necessary medical care, and the calculation of that amount must not be reduced because (1) the provider accepts less than the total bill or (2) an insurer pays less than that amount.

EFFECTIVE DATE: October 1, 2012, and the collateral source provision is applicable to actions filed on or after that date.

### **LIABILITY FOR AMBULANCE PAYMENTS**

The bill's provisions on liability for ambulance payments are subject to the following provisions in existing law:

1. the DPH commissioner's duties regarding emergency medical services (which include, among other things, setting rates for ambulance services) (CGS § 19a-177); and
2. the requirement that health insurance policies provide coverage for medically necessary ambulance services (CGS §§ 38a-498 and -525).

Among other things, the law provides that (1) insurers are not required to provide ambulance benefits in excess of the maximum rates set by DPH and (2) payments for such services must be paid directly to the ambulance provider if the provider complies with certain requirements and has not been paid by another source.

### **EVIDENCE OF COLLATERAL SOURCE PAYMENTS**

In personal injury or wrongful death cases, the law generally requires courts to reduce economic damages by the amount paid to the claimant by collateral sources (e.g., health insurance), less the amount paid, contributed, or forfeited by the claimant to secure the collateral source benefit. (Both the amount of collateral sources, and the amount paid to secure them, also include amounts paid on the claimant's behalf.)

After the jury or court finds liability and awards damages, and before the court enters judgment, the court must receive evidence on the total amount of collateral sources which have been paid for the claimant's benefit as of the date the court enters judgment. Under the bill, evidence that a specified health care provider accepted an amount less than the provider's total bill, or evidence that an insurer paid less than the total bill, is admissible for this purpose.

This provision applies to bills by state-licensed physicians, physician assistants, dentists, chiropractors, natureopaths, physical therapists, podiatrists, psychologists, optometrists, advanced practice registered nurses, or state-certified emergency medical technicians.

By law, there is no reduction for (1) collateral sources for which a right of subrogation exists or (2) the amount of collateral sources equal to the reduction in the claimant's economic damages due to his or her percentage of negligence (CGS § 52-225a(a)).

## **BACKGROUND**

### ***Worker's Compensation***

The worker's compensation law defines "arising out of and in the course of employment" as an accidental injury happening to an employee, or an occupational disease of an employee, originating while the employee has been engaged in the line of the employee's duty in the business or affairs of the employer upon the employer's premises, or while engaged elsewhere upon the employer's business or affairs by the employer's express or implied direction. There are additional provisions related to specific employees (e.g., police officers and firefighters) as well as other conditions and exceptions (e.g., injuries due to alcohol or narcotic use) (CGS § 31-275).

### ***Business Entry Evidence***

The law allows signed reports and bills of the treating health care providers listed above to be introduced in any civil action as business entry evidence without calling the provider to testify. It is presumed that the signature on the report is that of the treating provider, and

that the report and bill were made in the ordinary course of business. The use of such evidence must not give rise to an adverse inference concerning the provider's testimony or lack thereof.

In personal injury cases, the law also allows the records and reports of such providers, as well as certain other professionals, to be admitted into evidence if the provider or other professional has (1) died before trial or (2) is physically or mentally disabled and thus no longer practicing. To introduce such evidence, the court must determine that the person is in fact disabled to such an extent that he or she cannot testify (CGS § 52-174).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37      Nay 8      (04/02/2012)