



General Assembly

February Session, 2012

Raised Bill No. 5545

LCO No. 2529

02529_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND LIENS IN WORKERS' COMPENSATION CASES.

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

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

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10 repealed and the following is substituted in lieu thereof (*Effective*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

12 (b) Upon a finding of liability and an awarding of damages by the
13 trier of fact and before the court enters judgment, the court shall
14 receive evidence from the claimant and other appropriate persons

15 concerning the total amount of collateral sources which have been paid
16 for the benefit of the claimant as of the date the court enters judgment.
17 For purposes of this section evidence that a physician or physician
18 assistant licensed under chapter 370, dentist licensed under chapter
19 379, chiropractor licensed under chapter 372, natureopath licensed
20 under chapter 373, physical therapist licensed under chapter 376,
21 podiatrist licensed under chapter 375, psychologist licensed under
22 chapter 383, or an emergency medical technician certified under
23 chapter 368d, optometrist licensed under chapter 380 or advanced
24 practice registered nurse licensed under chapter 378, accepted an
25 amount less than the total amount of any bill generated by such
26 physician, physician assistant, dentist, chiropractor, natureopath,
27 physical therapist, podiatrist, psychologist, emergency medical
28 technician, optometrist, or advanced practice registered nurse, or
29 evidence that an insurer paid less than the total amount of any bill
30 generated by such physician, physician assistant, dentist, chiropractor,
31 natureopath, physical therapist, podiatrist, psychologist, emergency
32 medical technician, optometrist, or advanced practice registered nurse,
33 shall be admissible as evidence of the total amount of collateral sources
34 which have been paid for the benefit of the claimant as of the date the
35 court enters judgment.

36 Sec. 3. Subsection (b) of section 52-174 of the general statutes is
37 repealed and the following is substituted in lieu thereof (*Effective*
38 *October 1, 2012*):

39 (b) In all actions for the recovery of damages for personal injuries or
40 death, pending on October 1, 1977, or brought thereafter, and in all
41 court proceedings in family relations matters, as defined in section
42 46b-1, or in the Family Support Magistrate Division, pending on
43 October 1, 1998, or brought thereafter, and in all other civil actions
44 pending on October 1, 2001, or brought thereafter, any party offering
45 in evidence a signed report and bill for treatment of any treating
46 [physician, dentist, chiropractor, natureopath, physical therapist,
47 podiatrist, psychologist, emergency medical technician, optometrist,

48 physician assistant or advanced practice registered nurse] physician or
49 physician assistant licensed under chapter 370, dentist licensed under
50 chapter 379, chiropractor licensed under chapter 372, natureopath
51 licensed under chapter 373, physical therapist licensed under chapter
52 376, podiatrist licensed under chapter 375, psychologist licensed under
53 chapter 383, or an emergency medical technician certified under
54 chapter 368d, optometrist licensed under chapter 380 or advanced
55 practice registered nurse licensed under chapter 378, may have the
56 report and bill admitted into evidence as a business entry and it shall
57 be presumed that the signature on the report is that of [the] such
58 treating physician, physician assistant, dentist, chiropractor,
59 natureopath, physical therapist, podiatrist, psychologist, emergency
60 medical technician, optometrist [, physician assistant] or advanced
61 practice registered nurse and that the report and bill were made in the
62 ordinary course of business. The use of any such report or bill in lieu of
63 the testimony of such treating physician, physician assistant, dentist,
64 chiropractor, natureopath, physical therapist, podiatrist, psychologist,
65 emergency medical technician, optometrist [, physician assistant] or
66 advanced practice registered nurse shall not give rise to any adverse
67 inference concerning the testimony or lack of testimony of such
68 treating physician, physician assistant, dentist, chiropractor,
69 natureopath, physical therapist, podiatrist, psychologist, emergency
70 medical technician, optometrist [, physician assistant] or advanced
71 practice registered nurse. In any action to which this section applies,
72 the total amount of any bill generated by such physician, physician
73 assistant, dentist, chiropractor, natureopath, physical therapist,
74 podiatrist, psychologist, emergency medical technician, optometrist or
75 advanced practice registered nurse shall be admissible in evidence on
76 the issue of the cost of reasonable and necessary medical care. The
77 calculation of the total amount of the bill shall not be reduced because
78 such physician, physician assistant, dentist, chiropractor, natureopath,
79 physical therapist, podiatrist, psychologist, emergency medical
80 technician, optometrist or advanced practice registered nurse accepts
81 less than the total amount of the bill or because an insurer pays less

82 than the total amount of the bill.

83 Sec. 4. Subsection (a) of section 31-293 of the 2012 supplement to the
84 general statutes is repealed and the following is substituted in lieu
85 thereof (*Effective from passage*):

86 (a) When any injury for which compensation is payable under the
87 provisions of this chapter has been sustained under circumstances
88 creating in a person other than an employer who has complied with
89 the requirements of subsection (b) of section 31-284, a legal liability to
90 pay damages for the injury, the injured employee may claim
91 compensation under the provisions of this chapter, but the payment or
92 award of compensation shall not affect the claim or right of action of
93 the injured employee against such person, but the injured employee
94 may proceed at law against such person to recover damages for the
95 injury; and any employer or the custodian of the Second Injury Fund,
96 having paid, or having become obligated to pay, compensation under
97 the provisions of this chapter may bring an action against such person
98 to recover any amount that he has paid or has become obligated to pay
99 as compensation to the injured employee. If the employee, the
100 employer or the custodian of the Second Injury Fund brings an action
101 against such person, he shall immediately notify the others, in writing,
102 by personal presentation or by registered or certified mail, of the action
103 and of the name of the court to which the writ is returnable, and the
104 others may join as parties plaintiff in the action within thirty days after
105 such notification, and, if the others fail to join as parties plaintiff, their
106 right of action against such person shall abate unless, with respect to
107 an action pending on or after July 1, 2011, the employer, insurance
108 carrier or Second Injury Fund gives written notice of a lien in
109 accordance with this subsection. In any case in which an employee
110 brings an action against a party other than an employer who failed to
111 comply with the requirements of subsection (b) of section 31-284, in
112 accordance with the provisions of this section, and the employer is a
113 party defendant in the action, the employer may join as a party
114 plaintiff in the action. The bringing of any action against an employer

115 shall not constitute notice to the employer within the meaning of this
116 section. If the employer and the employee join as parties plaintiff in the
117 action and any damages are recovered, the damages shall be so
118 apportioned that the claim of the employer, as defined in this section,
119 shall take precedence over that of the injured employee in the proceeds
120 of the recovery, after the deduction of reasonable and necessary
121 expenditures, including attorneys' fees, incurred by the employee in
122 effecting the recovery. [If] With respect to an action pending on or after
123 July 1, 2011, if the action has been brought by the employee, the claim
124 of the employer shall be reduced by one-third of the amount of the
125 benefits to be reimbursed to the employer, unless otherwise agreed
126 upon by the parties, which reduction shall inure solely to the benefit of
127 the employee, except that such reduction shall not apply if the
128 reimbursement is to the state of Connecticut or a political subdivision
129 of the state including a local public agency, as the employer, or the
130 custodian of the Second Injury Fund. The rendition of a judgment in
131 favor of the employee or the employer against the party shall not
132 terminate the employer's obligation to make further compensation
133 which the commissioner thereafter deems payable to the injured
134 employee. If the damages, after deducting the employee's expenses as
135 provided in this subsection, are more than sufficient to reimburse the
136 employer, damages shall be assessed in his favor in a sum sufficient to
137 reimburse him for his claim, and the excess shall be assessed in favor
138 of the injured employee. No compromise with the person by either the
139 employer or the employee shall be binding upon or affect the rights of
140 the other, unless assented to by him. For the purposes of this section,
141 the claim of the employer shall consist of (1) the amount of any
142 compensation which he has paid on account of the injury which is the
143 subject of the suit, and (2) an amount equal to the present worth of any
144 probable future payments which he has by award become obligated to
145 pay on account of the injury. The word "compensation", as used in this
146 section, shall be construed to include incapacity payments to an
147 injured employee, payments to the dependents of a deceased
148 employee, sums paid out for surgical, medical and hospital services to

149 an injured employee, the burial fee provided by subdivision (1) of
 150 subsection (a) of section 31-306, payments made under the provisions
 151 of sections 31-312 and 31-313, and payments made under the
 152 provisions of section 31-284b in the case of an action brought under
 153 this section by the employer or an action brought under this section by
 154 the employee in which the employee has alleged and been awarded
 155 such payments as damages. Each employee who brings an action
 156 against a party in accordance with the provisions of this subsection
 157 shall include in his complaint (A) the amount of any compensation
 158 paid by the employer or the Second Injury Fund on account of the
 159 injury which is the subject of the suit, and (B) the amount equal to the
 160 present worth of any probable future payments which the employer or
 161 the Second Injury Fund has, by award, become obligated to pay on
 162 account of the injury. Notwithstanding the provisions of this
 163 subsection, when any injury for which compensation is payable under
 164 the provisions of this chapter has been sustained under circumstances
 165 creating in a person other than an employer who has complied with
 166 the requirements of subsection (b) of section 31-284, a legal liability to
 167 pay damages for the injury and the injured employee has received
 168 compensation for the injury from such employer, its workers'
 169 compensation insurance carrier or the Second Injury Fund pursuant to
 170 the provisions of this chapter, the employer, insurance carrier or
 171 Second Injury Fund shall have a lien upon any judgment received by
 172 the employee against the party or any settlement received by the
 173 employee from the party, provided the employer, insurance carrier or
 174 Second Injury Fund shall give written notice of the lien to the party
 175 prior to such judgment or settlement.

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(b)

Sec. 4	<i>from passage</i>	31-293(a)
--------	---------------------	-----------

Statement of Purpose:

To: (1) Specify that a person is liable in contract to pay for the cost of services delivered by an ambulance provider, (2) clarify the purposes for which certain health care provider bills may be used in personal injury and wrongful death actions, and (3) specify that the provisions of public act 11-205 apply to actions pending on or after July 1, 2011.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]