

State of Wisconsin



2005 Assembly Bill 764

Date of enactment:
Date of publication*:

2005 WISCONSIN ACT

AN ACT to amend 893.55 (7); and to create 893.55 (8) of the statutes; relating to: awards to persons suffering damages as the result of medical malpractice and evidence of compensation for those damages.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 893.55 (7) of the statutes is amended to read:

893.55 (7) Evidence of any compensation for bodily injury received from sources other than the defendant to compensate the claimant for the injury is admissible in an action to recover damages for medical malpractice. Evidence of the claimant's obligations of subrogation or reimbursement resulting from payments made by sources other than the defendant to compensate the claimant for the injury is admissible in an action to recover damages for medical malpractice. This section does not limit the substantive or procedural rights of persons who have claims based upon subrogation.

SECTION 2. 893.55 (8) of the statutes is created to read:

893.55 (8) (a) If medical malpractice did occur, the finder of fact shall determine all of the following:

1. The amount that was provided from sources other than the defendant to compensate the claimant for the injury resulting from the medical malpractice.
2. The amount that the claimant is legally obligated to pay the sources under subd. 1. for the compensation provided by those sources under subd. 1., either through subrogation or by reimbursement.

(b) The court shall subtract the amount determined under par. (a) 2. from the amount determined under par. (a) 1. and reduce the amount of damages awarded to the claimant under ch. 655 by that difference.

SECTION 3. Initial applicability.

(1) This act first applies to medical malpractice acts or omissions occurring on the effective date of this subsection.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].