

HB420 INTRODUCED



1 HB420
2 FZGSDDC-1
3 By Representatives Faulkner, Colvin, Kirkland
4 RFD: Judiciary
5 First Read: 04-Apr-24



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Under a litigation financing agreement, a company advances money to an attorney to pay the expenses of a civil suit on behalf of an injured individual. If the individual prevails, the litigation financier is repaid from the amount awarded to the individual.

This bill would regulate this practice by imposing limits on how much litigation financiers can be paid and would require disclosure of the financing agreement to the court and the other parties to the suit.

Under existing law, an employer can be held responsible for the death or injury of an individual caused by an employee, either on a direct basis when the employer was negligent or wanton in supervising the employee, or on a vicarious basis when the employee was acting in the scope of employment when the death or injury occurred.

This bill would provide that an employer may admit in a civil suit that the employee was acting in the scope of the job and would thereby restrict the basis for the employer's exposure to damages to vicarious liability.

This bill would define "noneconomic damages" in



HB420 INTRODUCED

29 a personal injury lawsuit and put a monetary cap on the
30 amount of noneconomic damages that may be awarded.

31 This bill would regulate the proof required for
32 recovery of damages for expenses for medical care
33 provided to an injured individual in personal injury,
34 wrongful death, product liability, and medical
35 malpractice cases, including cases where a health care
36 provider has agreed to be paid from an amount awarded
37 to the individual or has sold the individual's account
38 to a third party. This bill would further establish
39 corresponding limits on the amount of damages
40 recoverable for medical expenses.

41 Under existing law, expert testimony on
42 scientific matters may be used in a civil trial where
43 it is based on sufficient facts and reliable principles
44 or methods that may be reliably applied to the facts in
45 dispute.

46 This bill would expand these requirements to
47 expert testimony on other technical or specialized
48 branches of knowledge and impose an additional
49 requirement on a party seeking to use expert testimony
50 to demonstrate that it is more likely than not that the
51 underlying principles used by the expert and their
52 application to the facts of case will be reliable.

53 This bill would change the definition of a
54 "passenger car" from a motor vehicle that is designed
55 to carry no more than 10 passengers to a vehicle that
56 can carry no more than 15 passengers.



HB420 INTRODUCED

57 Existing law provides that failure to wear a
58 seatbelt is not evidence in a civil suit for an injured
59 individual's contributory negligence.

60 This bill would specify that the nonuse of a
61 seatbelt by an injured individual can be used in a
62 civil action for certain purposes, including proof that
63 an accident victim failed to mitigate or otherwise
64 caused his or her injury.

65 This bill would regulate advertising statements
66 made by attorneys about monetary awards they have
67 obtained in other civil suits, by limiting the award
68 amounts to those that are final and have actually been
69 recovered and paid to clients, and would provide a
70 criminal penalty for a knowing violation.

71 Also, under existing law, a civil action, other
72 than one involving child support, may be transferred to
73 another county in which the action could have been
74 lawfully filed, when the transfer would serve the
75 convenience of the parties or is in the interest of
76 justice.

77 This bill would specify that the interest of
78 justice requires a court to transfer a civil action to
79 the county in which the facts underlying the suit
80 occurred.

81

82

A BILL

83

TO BE ENTITLED

84

AN ACT



HB420 INTRODUCED

85
86 Relating to civil actions; to add Article 4 to Chapter
87 21 of Title 12, Code of Alabama 1975, to regulate litigation
88 financing agreements; to add Article 41 to Chapter 5 of Title
89 6, Code of Alabama 1975, to regulate the grounds for liability
90 of an employer; to add Article 4 to Chapter 11 of Title 6,
91 Code of Alabama 1975, to provide a definition for "noneconomic
92 damages" and to limit liability therefor; to amend Section
93 12-21-45, Code of Alabama 1975, to further regulate evidence
94 for recovery of damages for past and future medical care
95 expenses; to add Section 12-21-46 to the Code of Alabama 1975,
96 to set a limit on damages for the value of medical care; to
97 amend Sections 6-5-522, 6-5-523, and 6-5-545, Code of Alabama
98 1975, to further regulate evidence in product liability and
99 medical malpractice actions for recovery of damages for
100 medical care expenses and to set a limit thereon; to repeal
101 Section 6-5-524, Code of Alabama 1975, regulating evidence of
102 third-party payments or reimbursements for medical and
103 hospital expenses; to amend Section 12-21-160, Code of Alabama
104 1975, to further provide for a standard for the admission in
105 evidence of expert testimony; to amend Sections 32-5B-2 and
106 32-5B-7, Code of Alabama 1975, to further provide for the
107 definition of "passenger car" and the purposes for which
108 evidence concerning the misuse or nonuse of a safety belt may
109 be admitted; to add Section 34-3-26 to the Code of Alabama
110 1975, to regulate attorney advertising concerning damage
111 awards obtained by an attorney and to provide a criminal
112 penalty for a violation; and to amend Section 6-3-21.1, Code



HB420 INTRODUCED

113 of Alabama 1975, to further provide for a change of venue.

114 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

115 Section 1. Article 4, commencing with Section
116 12-21-500, is added to Chapter 21 of Title 12, Code of Alabama
117 1975, to read as follows:

118 Article 4

119 §12-21-500

120 (a) This article shall be known and be cited as the
121 Litigation Financing Safeguards and Transparency Act.

122 (b) In enacting this article, the Legislature finds and
123 declares the following:

124 (1) The practice whereby third parties with financial
125 resources pay the expenses of litigation on behalf of persons
126 seeking redress in our court system can be an innovative and
127 helpful means of affording access to justice to those who
128 otherwise lack the money and resources.

129 (2) Nevertheless, permitting a third party that is not
130 an advocate or a party to a dispute, to fund litigation
131 presents unique temptations that potentially undermine the
132 integrity of our civil court system by: (i) compromising the
133 ethical obligation of attorneys to provide zealous advocacy
134 that is owed exclusively to their clients; (ii) introducing
135 outside incentives that undermine the true monetary value of
136 cases and lead to financial speculation in litigation; (iii)
137 misleading officers of the court concerning those influencing
138 the course of a lawsuit; and (iv) exposing proprietary
139 knowledge to foreign state actors.

140 (3) Therefore, it is the policy of the State of Alabama



HB420 INTRODUCED

141 to balance the need for access to justice for consumers of
142 modest means with the need to protect those same consumers by
143 ensuring that they recover more than those financing their
144 cases and by fostering transparency in our courts through
145 mandatory disclosure of litigation financing agreements to
146 judges, opposing counsel, and all parties who have a stake in
147 a lawsuit's outcome.

148 §12-21-501

149 For purposes of this article, the following terms have
150 the following meanings:

151 (1) CONSUMER or FUNDED CONSUMER. Any person who has
152 entered into a litigation financing agreement or whose
153 recovery or outcome in a civil action, arbitration proceeding,
154 administrative proceeding, claim, or cause of action is
155 affected by litigation financing.

156 (2) FOREIGN PERSON. Any person who is not any of the
157 following:

158 a. A citizen of the United States.

159 b. An alien lawfully admitted for permanent residence
160 in the United States.

161 c. An unincorporated association, a substantial number
162 of members of which are citizens of the United States, or
163 aliens lawfully admitted for permanent residence in the United
164 States.

165 d. A corporation that is incorporated in the United
166 States.

167 (3) FOREIGN PRINCIPAL. Any of the following persons or
168 entities:



HB420 INTRODUCED

169 a. The government or a government official of any
170 nation other than the United States.

171 b. A political subdivision or political party of a
172 nation other than the United States.

173 c. A partnership, association, corporation,
174 organization, or other combination of persons organized under
175 the laws or having its principal place of business in a nation
176 other than the United States whose shares or other ownership
177 interest is owned by the government or a government official
178 of a nation other than the United States or owned by a
179 political subdivision or political party of a nation other
180 than the United States.

181 (4) HEALTH CARE PROVIDER. Any hospital, institution,
182 laboratory, pharmacy, physician, optometrist, chiropractor,
183 dentist, nurse, pharmacist, therapist, or any other medical or
184 health care facility, professional, or person who diagnoses,
185 evaluates, treats, or otherwise delivers medical services or
186 treatment to an individual.

187 (5) LITIGATION FINANCIER. Any person engaged in
188 litigation financing.

189 (6) LITIGATION FINANCING AGREEMENT or LITIGATION
190 FINANCING. Any agreement creating a right to receive payment
191 by or on behalf of any consumer the repayment of which is
192 contingent in any respect on the outcome of a civil action,
193 arbitration proceeding, administrative proceeding, claim, or
194 cause of action by settlement, judgment, or otherwise, or on
195 the outcome of any matter within a portfolio that includes a
196 civil action, arbitration proceeding, administrative



HB420 INTRODUCED

197 proceeding, claim, or cause of action and involves the same
198 counsel or affiliated counsel. The term does not apply to
199 payments made to any of the following:

200 a. A named party to a civil action, arbitration
201 proceeding, administrative proceeding, claim, or cause of
202 action if payments made to the party are provided exclusively
203 for personal and family use and are provided upon condition
204 they are not to be used for legal filings, legal document
205 preparation and drafting, appeals, creation of a litigation
206 strategy, drafting testimony, or other expenses directly
207 related to litigation, and the repayment of which is not
208 contingent upon the outcome of the civil action, arbitration
209 proceeding, administrative proceeding, claim, or cause of
210 action.

211 b. An attorney providing legal services to a client on
212 a contingency fee basis, when the payment is for legal costs
213 and expenses advanced by the attorney, or for emergency
214 financial assistance advanced by the attorney, where the
215 services or payments are provided by the attorney in
216 accordance with the Alabama Rules of Professional Conduct.

217 c. A person with a preexisting contractual obligation
218 to indemnify or defend a party to a civil action,
219 administrative proceeding, claim, or cause of action or a
220 health insurer that has paid, or is obligated to pay, any sums
221 for health care for an injured individual under the terms of a
222 health insurance plan or agreement.

223 d. A financial institution, as defined in Section
224 40-16-1, for repayment of a loan made directly to a party or a



HB420 INTRODUCED

225 party's attorney when repayment of the loan is not contingent
226 upon the outcome of a civil action, arbitration proceeding,
227 administrative proceeding, claim, or cause of action by
228 settlement, judgment, or otherwise, or on the outcome of any
229 matter within a portfolio that includes the civil action,
230 arbitration proceeding, administrative proceeding, claim, or
231 cause of action and involves the same counsel or affiliated
232 counsel.

233 e. A nonprofit legal organization funded by private
234 donors which represents clients on a pro bono, no-cost basis,
235 if the nonprofit legal organization seeks only injunctive
236 relief on behalf of its clients. This article does not affect
237 awards of costs or attorney fees to nonprofit legal
238 organizations in the pro bono, no-cost pursuit of injunctive
239 relief.

240 (7) NATIONAL SECURITY INTERESTS. Interests that
241 encompass national defense, foreign intelligence and
242 counterintelligence, international and internal security, and
243 foreign relations.

244 (8) NET PROCEEDS. The portion of the proceeds of a
245 civil action, arbitration proceeding, administrative
246 proceeding, claim, or cause of action remaining after
247 satisfaction of all liens with a higher priority than that of
248 the litigation financier.

249 (9) PROPRIETARY INFORMATION or CONFIDENTIAL
250 INFORMATION. Information developed, created, or discovered by
251 a person, or known by or was conveyed to the person, and has
252 commercial value in the person's business. The term includes,



HB420 INTRODUCED

253 but is not limited to, domain names, trade secrets, sensitive
254 personal information, copyrights, ideas, techniques,
255 inventions whether patentable or not, and other information of
256 any type relating to designs, configurations, documentation,
257 recorded data, schematics, circuits, mask works, layouts,
258 source codes, object codes, master works, master databases,
259 algorithms, flow charts, formulae, works of authorship,
260 mechanisms, research, manufacture, improvements, assembly,
261 installation, intellectual property including patents and
262 patent applications, and information concerning the person's
263 actual or anticipated business, research or development, or
264 information received in confidence by or for the person from
265 any other source.

266 (10) SOVEREIGN WEALTH FUND. An investment fund owned or
267 controlled by a foreign principal or an agent of a foreign
268 principal.

269 §12-21-502

270 (a) A litigation financier may not direct, recommend,
271 or make any decision with respect to the course of any civil
272 action, arbitration proceeding, administrative proceeding,
273 claim, cause of action, settlement, or other legal disposition
274 in which the litigation financier is engaged in litigation
275 financing. This prohibition includes, but is not limited to,
276 decisions in appointing or changing counsel, choice of or use
277 of expert witnesses, investigations, venue selection,
278 discovery, and litigation strategy. All rights to control and
279 decision-making with regard to the subject civil action,
280 arbitration proceeding, administrative proceeding, claim,



HB420 INTRODUCED

281 cause of action, settlement, or other legal disposition remain
282 solely with the funded consumer and that funded consumer's
283 attorney.

284 (b) A litigation financier may not, directly or
285 indirectly, receive a larger share of the net proceeds of a
286 civil action, arbitration proceeding, administrative
287 proceeding, claim, or cause of action than the funded consumer
288 who is party to the financed civil action, arbitration
289 proceeding, administrative proceeding, claim, or cause of
290 action.

291 (c) In class action litigation, the court shall take
292 the existence of litigation financing and any related conflict
293 of interest into account when determining whether a class
294 representative or class counsel would adequately and fairly
295 represent the interests of the class.

296 (d) The court shall take the existence of litigation
297 financing and any related conflict of interest into account
298 when approving or appointing attorneys to leadership positions
299 in multidistrict litigation. Such leadership positions
300 include, but are not limited to, lead counsel, co-lead
301 counsel, common benefit counsel, steering committee
302 membership, and executive committee membership.

303 §12-21-503

304 A litigation financier may not do any of the following:

305 (1) Pay or offer to pay a commission, referral fee, or
306 other consideration to any person, including an attorney, law
307 firm, or health care provider, for referring a person to a
308 litigation financier.



HB420 INTRODUCED

309 (2) Assign, including securitizing, a litigation
310 financing agreement in whole or in part.

311 (3) Take an assignment of rights to a civil action,
312 arbitration proceeding, administrative proceeding, claim, or
313 cause of action where that litigation financier is engaged in
314 litigation financing in that civil action, arbitration
315 proceeding, administrative proceeding, claim, or cause of
316 action.

317 §12-21-504

318 (a) An attorney who enters into a litigation financing
319 agreement shall deliver a copy of the agreement to the
320 consumer he or she is representing in the subject civil
321 action, arbitration proceeding, administrative proceeding,
322 claim, or cause of action within 30 days after being retained
323 as counsel, or within 30 days after entering into the
324 agreement, whichever occurs first.

325 (b) Except as otherwise stipulated or ordered by a
326 court of competent jurisdiction, a consumer or the consumer's
327 counsel of record, without awaiting a discovery request and
328 within 30 days after the appearance of an opposing party in
329 the civil action, arbitration proceeding, administrative
330 proceeding, claim, or cause of action, or within 10 days after
331 entering into the agreement in a pending civil action,
332 arbitration proceeding, administrative proceeding, claim, or
333 cause of action, shall disclose and deliver to the individuals
334 or entities listed in subsection (e) a copy of the litigation
335 financing agreement.

336 (c) In addition to complying with subsections (a) and



HB420 INTRODUCED

337 (b), for any action filed or certified as a class action in
338 which litigation financing is involved, the class counsel of
339 the putative class must disclose any legal, financial, or
340 other relationship between the legal representative and a
341 litigation financier to the individuals or entities listed in
342 subsection (e).

343 (d) In addition to complying with subsections (a), (b)
344 and (c), attorneys appearing in a consolidated action in
345 Alabama must disclose and deliver a copy of the litigation
346 financing agreement to every other attorney appearing in the
347 consolidated action within 10 days of the order of
348 consolidation.

349 (e) Disclosures required in subsections (b) and (c)
350 must be made to the following individuals or entities:

351 (1) All parties to the civil action, arbitration
352 proceeding, administrative proceeding, claim, or cause of
353 action or to each party's counsel of record.

354 (2) The court, agency, or tribunal in which the civil
355 action, arbitration proceeding, administrative proceeding,
356 claim, or cause of action is pending.

357 (3) Any known person, including an insurer, with a
358 preexisting contractual obligation to indemnify or defend a
359 party to the civil action, arbitration proceeding,
360 administrative proceeding, claim, or cause of action.

361 (f) Class counsel, upon request of a class member, must
362 disclose and deliver a copy of the litigation financing
363 agreement to the class member.

364 (g) (1) A consumer that is a party, or the consumer's



HB420 INTRODUCED

365 counsel of record, without awaiting a discovery request and
366 within 30 days after the appearance of an opposing party in a
367 civil action, arbitration proceeding, administrative
368 proceeding, claim, or cause of action, or within 10 days after
369 entering into a litigation financing agreement in a pending
370 civil action, arbitration proceeding, administrative
371 proceeding, claim, or cause of action, shall disclose in
372 writing the name, address, and citizenship or nation of
373 incorporation or registration of any foreign person, foreign
374 principal, or sovereign wealth fund, other than the named
375 parties or counsel of record, where any of the following
376 applies:

377 a. The foreign person, foreign principal, or sovereign
378 wealth fund has a right to receive any payment that is
379 contingent in any respect: (i) on the outcome of the civil
380 action, arbitration proceeding, administrative proceeding,
381 claim, or cause of action by settlement, judgment, or other
382 disposition of the same; or (ii) on the outcome of any matter
383 within a portfolio that includes the civil action, arbitration
384 proceeding, administrative proceeding, claim, or cause of
385 action and involves the same counsel or affiliated counsel.

386 b. The foreign person, foreign principal, or sovereign
387 wealth fund is the direct or indirect source of the money used
388 to satisfy any term of the litigation financing agreement.

389 c. The foreign person, foreign principal, or sovereign
390 wealth fund receives or has the right to receive proprietary
391 information or information related to national security
392 interests obtained as a result of the civil action,



HB420 INTRODUCED

393 arbitration proceeding, administrative proceeding, claim, or
394 cause of action.

395 (2) Disclosures required in this subsection shall be
396 made to the following individuals or entities:

397 a. All parties to the civil action, arbitration
398 proceeding, administrative proceeding, claim, or cause of
399 action or to each party's counsel of record.

400 b. The court, agency, or tribunal in which the civil
401 action, arbitration proceeding, administrative proceeding,
402 claim, or cause of action is pending.

403 c. Any known person, including an insurer, with a
404 preexisting contractual obligation to indemnify or defend a
405 party to the civil action, arbitration proceeding,
406 administrative proceeding, claim, or cause of action.

407 d. The Office of the Secretary of State of the State of
408 Alabama.

409 e. The Office of the Attorney General of the State of
410 Alabama.

411 (h) The disclosure obligations required by this section
412 are continuing obligations, and within 30 days after entering
413 into a litigation financing agreement or amending an existing
414 agreement, a consumer or the consumer's attorney must disclose
415 and deliver any new or amended litigation financing agreement
416 and related disclosures.

417 (i) The existence of a litigation financing agreement
418 and all participants or parties to the agreement are
419 permissible subjects for discovery in any civil action,
420 arbitration proceeding, administrative proceeding, claim, or



HB420 INTRODUCED

421 cause of action.

422 (j) (1) A party or the party's counsel of record shall
423 exercise due diligence in ascertaining the existence of
424 information made subject to disclosure under this section and
425 in obtaining the information required for disclosure.

426 (2) A party or the party's counsel of record who
427 exercises due diligence and reasonably concludes that no
428 information subject to disclosure exists does not violate this
429 section.

430 §12-21-505

431 (a) Any documents or other information obtained by a
432 litigation financier related to a civil action, arbitration
433 proceeding, administrative proceeding, claim, or cause of
434 action for which it is providing, or may provide, litigation
435 financing shall be kept in confidence by the litigation
436 financier.

437 (b) Any documents or other information obtained by a
438 litigation financier in a civil action, arbitration
439 proceeding, administrative proceeding, claim, or cause of
440 action for which it is providing, or may provide, litigation
441 financing shall be used solely in relation to that specific
442 civil action, arbitration proceeding, administrative
443 proceeding, claim, or cause of action.

444 (c) At the conclusion of any civil action, arbitration
445 proceeding, administrative proceeding, claim, or cause of
446 action, or the termination of a litigation financing
447 agreement, whichever occurs first, the litigation financier
448 shall return all documents, files, and materials, including



HB420 INTRODUCED

449 all physical and electronic copies, to the person that
450 provided the documents. Alternatively, within 30 days of the
451 triggering event, the litigation financier shall certify in
452 writing that it has used reasonable efforts to destroy all
453 documents, files, and materials, including all physical and
454 electronic copies.

455 (d) After the conclusion of any civil action,
456 arbitration proceeding, administrative proceeding, claim, or
457 cause of action, or the termination of a litigation financing
458 agreement, a litigation financier may not compile or store
459 documents or other information obtained in the course of
460 providing litigation financing for any purpose.

461 §12-21-506

462 (a) In any litigation financing agreement, a litigation
463 financier shall indemnify the funded consumer against any
464 adverse costs, attorney fees, damages, or sanctions that may
465 be ordered or awarded against the funded consumer in any civil
466 action, arbitration proceeding, administrative proceeding,
467 claim, or cause of action for which the litigation financier
468 is providing litigation financing and which are based upon a
469 frivolous or meritless claim.

470 (b) If the adverse costs, attorney fees, damages, or
471 sanctions are imposed as a result of the funded consumer's
472 intentionally wrongful conduct, the litigation financier is
473 not required to indemnify the funded consumer.

474 §12-21-507

475 (a) A litigation financing agreement executed in
476 violation of this article is void.



HB420 INTRODUCED

477 (b) A litigation financier who violates Sections
478 12-21-502, 12-21-503, or 12-21-504 commits an unfair and
479 deceptive trade practice actionable under Chapter 19 of Title
480 8.

481 (c) The court, agency, or tribunal shall determine
482 sanctions for any party that fails to make the disclosures
483 required in Section 12-21-504. An evasive or incomplete
484 disclosure shall be treated as failure to make the disclosure.

485 Section 2. Article 41, commencing with Section 6-5-820,
486 is added to Chapter 5 of Title 6, Code of Alabama 1975, to
487 read as follows:

488 Article 41

489 §6-5-820

490 The Legislature finds and declares the following:

491 (1) In civil actions in which a claimant is seeking to
492 hold a person responsible for an injury caused by another
493 individual working for the person, it is routine to assert
494 multiple claims based on theories of direct and vicarious
495 liability.

496 (2) This practice drives up the cost of litigation by
497 expanding the scope and length of discovery and developing
498 evidence that can be irrelevant.

499 (3) The purpose of the Legislature in enacting this
500 article is to reduce the time and expense of civil actions by
501 permitting a party to limit its potential responsibility to
502 vicarious liability by formally stipulating to an
503 employer-employee relationship with the individual who caused
504 the injury.



HB420 INTRODUCED

505 §6-5-821

506 (a) Upon submission to a court of a written stipulation
507 by an employer providing that, at the time of the event giving
508 rise to a civil action, the individual alleged to be an
509 employee, agent, or otherwise under the control of the
510 employer, and whose action or inaction is alleged to have
511 caused the damages, was the employer's employee and was acting
512 within the course and scope of employment with the employer,
513 no cause of action may be maintained against the employer for
514 either of the following:

515 (1) Negligence in hiring, retaining, training,
516 supervising, or trusting the employee, or for any other claim
517 of negligence on the part of the employer for the employee's
518 harmful conduct.

519 (2) Wantonness in hiring, retaining, training,
520 supervising, or trusting the employee, or for any other claim
521 of wantonness on the part of the employer in connection with
522 the employee's harmful action or inaction, unless the
523 conditions of Section 6-5-823, are established by clear and
524 convincing evidence.

525 (b) Any liability for damages of any employer who
526 submits the written stipulation under subsection (a) shall be
527 restricted to the employer's vicarious liability under the
528 doctrine of respondeat superior except as provided pursuant to
529 Section 6-5-823.

530 §6-5-822

531 (a) In any civil action where a dispute exists as to
532 whether an individual is an independent contractor or an



HB420 INTRODUCED

533 employee for the purposes of establishing vicarious liability,
534 the existence of a valid written contract between the parties
535 to which the relationship applies purporting to create an
536 independent contractor relationship shall create a rebuttable
537 presumption that the individual at issue is an independent
538 contractor.

539 (b) Notwithstanding the existence of an independent
540 contractor relationship, a party against which damages are
541 claimed may submit the written stipulation provided in Section
542 6-5-821, the effect of which shall be to restrict that party's
543 liability for damages to that of an employer's vicarious
544 liability under the doctrine of respondeat superior except as
545 provided pursuant to Section 6-5-823.

546 §6-5-823

547 Notwithstanding any other provision of this article, a
548 cause of action may be maintained against an employer for
549 wanton hiring, retaining, training, supervising, or trusting
550 the employee, or other claim of wantonness on the part of the
551 employer in connection with the employee's harmful action or
552 inaction, if it is established by clear and convincing
553 evidence that the employer had actual knowledge of any of the
554 following at the time of the employee's harmful action or
555 inaction:

556 (1) The employee intended to bring about the injury or
557 death of another individual.

558 (2) The employee was under the influence of alcohol or
559 any controlled substance, or a combination thereof, which
560 impaired the employee's mental or physical faculties to a



HB420 INTRODUCED

561 degree which rendered the employee incapable of performing the
562 duties of employment.

563 (3) The employee was committing a felony offense.

564 (4) The employee did not have a lawful driver license,
565 or the employee's driver license was revoked, suspended, or
566 canceled.

567 (5) The employee was involved in human trafficking as
568 defined in Article 8, Chapter 6 of Title 13A.

569 §6-5-824

570 This article shall not apply to any employer registered
571 as an interstate motor carrier with the U.S. Department of
572 Transportation which has not conducted a New Entrant Safety
573 Assurance Program Audit in compliance with the Federal Motor
574 Carrier Safety Regulations, 49 C.F.R. Part 385.

575 Section 3. Article 4, commencing with Section 6-11-70,
576 is added to Chapter 11 of Title 6 of the Code of Alabama 1975,
577 to read as follows:

578 Article 4

579 §6-11-70

580 (a) For purposes of this article, the term "noneconomic
581 damages" means damages arising from pain, suffering
582 inconvenience, physical impairment, mental anguish, emotional
583 distress, loss of chance, loss of consortium, or any other
584 nonpecuniary damages. The term does not include punitive
585 damages.

586 (b) Nothing in this article shall modify, amend, or
587 supersede Section 6-11-21 regarding limitations on punitive
588 damages.



HB420 INTRODUCED

589 §6-11-71

590 (a) In any action for damages for personal injury in
591 which the cause of action arises on or after January 1, 2025,
592 an award for noneconomic damages may not exceed one million
593 dollars (\$1,000,000), regardless of the number of claims,
594 theories of liability, or defendants in the action.

595 (b) The limitation on noneconomic damages provided
596 under subsection (a) shall be adjusted as of January 1, 2028,
597 and as of January 1 at three-year intervals thereafter, at an
598 annual rate in accordance with the Consumer Price Index as
599 published by the United States Bureau of Labor Statistics.

600 (c) The limitation established under subsection (a)
601 shall apply to each individual who is a direct victim of
602 tortious conduct and to all individuals who claim injury by or
603 through that victim.

604 (d) In a jury trial, the jury may not be informed of
605 the limitation established under subsection (a). If the jury
606 awards an amount for noneconomic damages that exceeds the
607 limitation established under subsection (a), the court shall
608 reduce the amount to conform to the limitation.

609 Section 4. Section 12-21-45, Code of Alabama 1975, is
610 amended to read as follows:

611 "§12-21-45

612 (a) For purposes of this section and Section 12-21-46,
613 the following terms have the following meanings:

614 (1) FACTORING COMPANY. Any person that purchases a
615 health care provider's accounts receivable at a discount below
616 the invoice value of the accounts.



HB420 INTRODUCED

617 (2) HEALTH CARE PROVIDER. Any hospital, institution,
618 laboratory, pharmacy, physician, optometrist, chiropractor,
619 dentist, nurse, pharmacist, therapist, or any other medical or
620 health care facility, professional, or person who diagnoses,
621 evaluates, treats, or otherwise delivers medical services or
622 treatment to a plaintiff.

623 (3) LETTER OF PROTECTION. Any arrangement, regardless
624 of whether it is referred to as a letter of protection, by
625 which a health care provider renders treatment in exchange for
626 a promise of payment for the plaintiff's expenses for medical
627 services or treatment from any judgment or settlement of a
628 personal injury or wrongful death lawsuit or claim.

629 (4) MEDICAL CARE PLAN. Any health care insurance,
630 health benefit plan, employer-provided health care plan or
631 medical insurance, workers' compensation insurance, Medicaid,
632 Medicare, other public or government-sponsored health care
633 insurance or benefit program, or other similar source
634 available to pay for services provided to an injured
635 individual at the time or after the medical services or
636 treatment were provided.

637 (5) MEDICAL SERVICES or TREATMENT. Any action taken by
638 a health care provider to observe, identify, diagnose,
639 stabilize, address, ameliorate, correct, remedy, rehabilitate,
640 manage, combat, or care for a plaintiff's injury, condition,
641 disease, disorder, or symptoms of a plaintiff's injury,
642 condition, disease, or disorder. The term includes any
643 equipment, facilities, medicines, drugs, prescriptions,
644 devices, or products provided or applied to a plaintiff by a



HB420 INTRODUCED

645 health care provider or consumed by a plaintiff at a health
646 care provider's direction.

647 (b) In all civil actions ~~where damages for any medical~~
648 ~~or hospital expenses are claimed and are legally recoverable~~
649 ~~for personal injury or death~~, evidence that the plaintiff's
650 ~~medical or hospital~~ expenses for medical services or treatment
651 have been ~~or will be~~ paid or reimbursed shall be admissible as
652 competent evidence. ~~In such actions upon admission of evidence~~
653 ~~respecting reimbursement or payment of medical or hospital~~
654 ~~expenses, the plaintiff shall be entitled to introduce~~
655 ~~evidence of the cost of obtaining reimbursement or payment of~~
656 ~~medical or hospital expenses~~ that the expenses paid or
657 reimbursed were reasonable and necessary. Proof that any
658 health care provider's bills were incurred but resolved in
659 whole or in part by way of contractual discount, reduction,
660 disallowance, gift, or write-off and not paid may not be used
661 to establish the necessity or reasonableness of those health
662 care provider expenses.

663 ~~(b) (c)~~ In such civil actions, information respecting
664 ~~such reimbursement or payment obtained or such reimbursement~~
665 ~~or payment which may be obtained by the plaintiff for medical~~
666 ~~or hospital expenses shall be subject to discovery. Evidence to~~
667 establish the reasonable value of past or future medical
668 services or treatment in any action to recover damages
669 resulting from death or injury to a person is admissible only
670 as follows in this subsection:

671 (1) Evidence offered to prove the amount of damages for
672 past reasonable and necessary medical services or treatment



HB420 INTRODUCED

673 that have been satisfied is limited to evidence of the amount
674 actually paid to the health care provider, regardless of the
675 source of payment.

676 (2) Evidence offered to prove the reasonable value of
677 unpaid charges for incurred reasonable and necessary medical
678 services or treatment shall be limited to evidence as
679 described in the following paragraphs:

680 a. If the plaintiff is covered by a medical care plan,
681 evidence of the amount that the medical care plan is obligated
682 to pay the health care provider to satisfy the charges for the
683 plaintiff's incurred reasonable and necessary medical services
684 or treatment, plus the plaintiff's share of those medical
685 expenses under the medical care plan.

686 b. If the plaintiff is covered by a medical care plan
687 but obtains treatment under a letter of protection or
688 otherwise does not submit to the medical care plan for payment
689 of any charges for any health care provider's medical services
690 or treatment, evidence of the amount the plaintiff's medical
691 care plan would pay the health care provider to satisfy the
692 past unpaid charges for reasonable and necessary medical
693 services or treatment, plus the plaintiff's share of those
694 medical expenses under the medical care plan, had the
695 plaintiff submitted the health care provider's charges to the
696 medical care plan for payment.

697 c. If the plaintiff obtains reasonable and necessary
698 medical services or treatment under a letter of protection or
699 on expectation of future payment and the health care provider
700 subsequently transfers the right to receive payment under the



HB420 INTRODUCED

701 letter of protection or account receivable to a factoring
702 company or other third party, evidence of the amount the
703 factoring company or other third party paid or agreed to pay
704 the health care provider in exchange for the right to receive
705 payment pursuant to the letter of protection or account
706 receivable.

707 d. If the plaintiff is not covered by a medical care
708 plan, evidence of the Medicare reimbursement rate in effect at
709 the time of trial for the plaintiff's incurred reasonable and
710 necessary medical services or treatment.

711 e. Any evidence disclosed under subsection (d) related
712 to a letter of protection.

713 f. Any evidence of the plaintiff's actual expenditures
714 to obtain the applicable medical care plan coverage for the
715 two-year period prior to the onset date of the illness or
716 injury that is the subject of the plaintiff's claim for
717 personal injury or death.

718 (3) Evidence offered to prove the amount of any future
719 reasonable and necessary medical services or treatment the
720 plaintiff will receive shall include, but is not limited to,
721 evidence as described in the following paragraphs:

722 a. If the plaintiff is covered by a medical care plan
723 or is eligible for a medical care plan, evidence of the amount
724 for which the future charges of health care providers could be
725 satisfied if submitted to the medical care plan, plus the
726 plaintiff's share of medical expenses under the medical care
727 plan.

728 b. If the plaintiff is not covered by a medical care



HB420 INTRODUCED

729 plan, evidence of the Medicare reimbursement rate in effect at
730 the time of trial for the medical services or treatment the
731 plaintiff will receive.

732 ~~(c) (d) Upon proof by the plaintiff to the court that~~
733 ~~the plaintiff is obligated to repay the medical or hospital~~
734 ~~expenses which have been or will be paid or reimbursed,~~
735 ~~evidence relating to such reimbursement or payment shall be~~
736 ~~admissible.~~In all civil actions where damages for any health
737 care provider's expenses are claimed, as a condition precedent
738 to asserting any claim for expenses for medical services or
739 treatment rendered under a letter of protection or on
740 expectation of future payment, the plaintiff shall disclose to
741 the other parties to the action all of the following
742 information that applies:

743 (1) Whether the plaintiff received medical services and
744 treatment under a letter of protection and if so, a copy of
745 the letter of protection.

746 (2) All billings for the plaintiff's medical services
747 or treatment, which shall be itemized and to the extent
748 applicable, shall include the following information:

749 a. For health care providers billing at the provider
750 level, the American Medical Association's Current Procedural
751 Terminology (CPT), or the Healthcare Common Procedure Coding
752 System (HCPCS) in effect on the date the medical services or
753 treatment were rendered.

754 b. For health care providers billing at the facility
755 level for expenses incurred in a clinical or outpatient
756 setting, including through an Ambulatory Payment



HB420 INTRODUCED

757 Classification (APC) or Enhanced Ambulatory Patient Grouping
758 (EAPG), the International Classification of Diseases (ICD)
759 diagnosis code and, if applicable, the American Medical
760 Association's Current Procedural Terminology (CPT) in effect
761 on the date the medical services or treatment were rendered.

762 c. For health care providers billing at the facility
763 level for expenses incurred in an inpatient setting, including
764 through a Diagnosis Related Group (DRG), the International
765 Classification of Diseases (ICD) diagnosis and procedure codes
766 in effect on the date on which the plaintiff was discharged.

767 (3) If the health care provider sells the account
768 receivable for the plaintiff's medical services or treatment
769 to a factoring company or other third party, the information
770 shall include the name of the factoring company or other third
771 party who purchased the account and the amount for which the
772 factoring company or other third party purchased the account
773 receivable, including any discount provided below the invoice
774 amount.

775 (4) Whether the plaintiff, at the time medical services
776 or treatment were rendered, had coverage pursuant to a medical
777 care plan and if so, the identity of the medical care plan.

778 (5) If the plaintiff received medical care and
779 treatment under a letter of protection, the identity of any
780 individual who referred the plaintiff for medical care and
781 treatment, including the plaintiff's attorney if applicable.

782 (6) If the plaintiff was referred by his or her
783 attorney to a health care provider under a letter of
784 protection, the information shall include the number and



HB420 INTRODUCED

785 frequency of the referrals by the attorney to the health care
786 provider and include a description of the mutual consideration
787 exchanged by the attorney and the health care provider for the
788 referrals.

789 (e) (1) Disclosure of an attorney's referral of a
790 plaintiff to a health care provider is not protected by any
791 privilege, and evidence of the referral shall be admissible.

792 (2) Any financial relationship between an attorney and
793 a health care provider is relevant to the issue of the bias of
794 a testifying health care provider.

795 ~~(d) This section shall not apply to any civil action~~
796 ~~pending on June 11, 1987."~~

797 Section 5. Section 12-21-46 is added to the Code of
798 Alabama 1975, to read as follows:

799 §12-21-46

800 In any action arising from death or injury to an
801 individual, the amount that may be recovered for the
802 reasonable value of any reasonable and necessary medical
803 services or treatment may not include any amount in excess of
804 the evidence of medical services or treatment expenses
805 admitted pursuant to Section 12-21-45, and also may not exceed
806 the sum of the following:

807 (1) Amounts actually paid by or on behalf of the
808 plaintiff to a health care provider who rendered reasonable
809 and necessary medical services or treatment;

810 (2) Amounts necessary to satisfy charges for reasonable
811 and necessary medical services or treatment which are due and
812 owing but at the time of trial are not yet satisfied; and



HB420 INTRODUCED

813 (3) Amounts necessary to provide for any reasonable
814 and necessary medical services or treatment that the plaintiff
815 will receive in the future.

816 Section 6. Sections 6-5-522 and 6-5-523, Code of
817 Alabama 1975, are amended to read as follows:

818 "§6-5-522

819 In all product liability actions where ~~damages~~amounts
820 for any medical or hospital expenses are ~~claimed and are~~
821 ~~legally recoverable~~incurred for personal injury or death,
822 evidence ~~that~~of the plaintiff's medical or hospital expenses
823 ~~have been or will be paid or reimbursed (1) by medical or~~
824 ~~hospital insurance, or (2) pursuant to the medical and~~
825 ~~hospital payment provisions of law governing workmen's~~
826 ~~compensation,~~ shall be admissible as competent evidence ~~in~~
827 ~~mitigation of such medical or hospital expense damages. In~~
828 ~~such actions upon admission of evidence respecting~~
829 ~~reimbursement or payment of medical or hospital expenses, the~~
830 ~~plaintiff shall be entitled to introduce evidence of the cost~~
831 ~~of obtaining reimbursement or payment of medical or hospital~~
832 ~~expenses. Such portion of the costs of obtaining reimbursement~~
833 ~~or payment of medical or hospital expenses as the trier of~~
834 ~~fact finds is reasonably related to the reimbursement or~~
835 ~~payment received or to be received by the plaintiff shall be a~~
836 ~~recoverable item of such damages for medical or hospital~~
837 ~~expenses~~only as set forth in Section 12-21-45."

838 "§6-5-523

839 In all product liability actions, ~~information~~
840 ~~respecting reimbursement or payment obtained or which may be~~



HB420 INTRODUCED

841 ~~obtained by the plaintiff for medical or hospital expenses~~
842 ~~shall be subject to discovery~~the amounts that may be recovered
843 for the reasonable value of any reasonable and necessary
844 medical services or treatment may not exceed the limits set
845 forth in Section 12-21-46."

846 Section 7. Section 6-5-524, Code of Alabama 1975,
847 regulating the admission of evidence of third-party payment or
848 reimbursement for medical care and hospital expenses, is
849 repealed.

850 Section 8. Section 6-5-545, Code of Alabama 1975, is
851 amended to read as follows:

852 "§6-5-545

853 (a) In all actions where ~~damages~~amounts for any medical
854 or hospital expenses are ~~claimed and are legally~~
855 ~~recoverable~~incurred for personal injury or death, evidence
856 that the plaintiff's medical or hospital expenses have been or
857 will be paid or reimbursed shall be admissible as competent
858 evidence only as set forth in Section 12-21-45. ~~In such~~
859 ~~actions upon admission of evidence respecting reimbursement or~~
860 ~~payment of medical or hospital expenses, the plaintiff shall~~
861 ~~be entitled to introduce evidence of the cost of obtaining~~
862 ~~reimbursement or payment of medical or hospital expenses.~~

863 (b) In such civil actions, ~~information respecting such~~
864 ~~reimbursement or payment obtained or such reimbursement or~~
865 ~~payment which may be obtained by the plaintiff for medical or~~
866 ~~hospital expenses shall be subject to discovery~~the amounts
867 that may be recovered for the reasonable value of any
868 reasonable and necessary medical services or treatment may not



HB420 INTRODUCED

869 exceed the limits set forth in Section 12-21-46.

870 ~~(c) Upon proof by the plaintiff to the court that the~~
871 ~~plaintiff is obligated to repay the medical or hospital~~
872 ~~expenses which have been or will be paid or reimbursed,~~
873 ~~evidence relating to such reimbursement or payment shall be~~
874 ~~admissible."~~

875 Section 9. Section 12-21-160, Code of Alabama 1975, is
876 amended to read as follows:

877 "§12-21-160

878 (a) Generally. If scientific, technical, or other
879 specialized knowledge will assist the trier of fact to
880 understand the evidence or to determine a fact in issue, a
881 witness qualified as an expert by knowledge, skill,
882 experience, training, or education, may testify thereto in the
883 form of an opinion or otherwise.

884 (b) ~~Scientific evidence~~Prerequisites. In addition to
885 requirements set forth in subsection (a), expert opinion
886 testimony ~~based on a scientific theory, principle,~~
887 ~~methodology, or procedure~~ is only admissible if the proponent
888 demonstrates to the court that it is more likely than not that
889 all of the following apply:

890 (1) The testimony is based on sufficient facts or
891 data~~.~~.

892 (2) The testimony is the product of reliable principles
893 and methods~~,~~ and.

894 (3) The ~~witness~~witness's opinion reflects a reliable
895 application of ~~has applied~~ the principles and methods ~~reliably~~
896 to the facts of the case.



HB420 INTRODUCED

897 (c) Nothing in this section shall modify, amend, or
898 supersede any provisions of the Alabama Medical Liability Act
899 of 1987 and the Alabama Medical Liability Act of 1996,
900 commencing with Section 6-5-540, et seq., or any judicial
901 interpretation thereof.

902 (d) This section shall apply to all civil state court
903 actions commenced on or after ~~January 1, 2012~~January 1, 2025.
904 In criminal actions, this section shall only apply to
905 non-juvenile felony proceedings in which the defendant that is
906 the subject of the proceeding was arrested on the charge that
907 is the subject of the proceeding on or after ~~January 1,~~
908 ~~2012~~January 1, 2025. This section shall not apply to domestic
909 relations, child support, juvenile, ~~or~~ probate cases, or to
910 any civil action in the district court.

911 (e) The provisions of this section, where inconsistent
912 with any Alabama Rule of Civil Procedure, Alabama Rule of
913 Criminal Procedure, or Alabama Rule of Evidence, including,
914 but not limited to, Ala. R. Evid. 702, shall supersede such
915 rule or parts of rules."

916 Section 10. Sections 32-5B-2 and 32-5B-7, Code of
917 Alabama 1975, are amended to read as follows:

918 "§32-5B-2

919 For purposes of this chapter, the term "passenger car"
920 means a motor vehicle with motive power designed for carrying
921 ~~10~~15 or fewer passengers. ~~Such~~The term does not include a
922 motorcycle or a trailer."

923 "§32-5B-7

924 (a) Failure to wear a safety belt in violation of this



HB420 INTRODUCED

925 chapter shall not be considered evidence of contributory
926 negligence and shall not limit the liability of an insurer,
927 nor shall the conviction be entered on the driving record of
928 any individual charged under the provisions of this chapter.

929 (b) The use, misuse, or nonuse of a safety belt by any
930 passenger car driver or passenger is admissible in any civil
931 action or proceeding for damages as evidence of failure to
932 mitigate damages, assumption of the risk of injury,
933 unforeseeable misuse, injury causation, or, if the court
934 otherwise determines, is admissible pursuant to applicable law
935 or rules of court."

936 Section 11. Section 34-3-26 is added to the Code of
937 Alabama 1975, to read as follows:

938 §34-3-26

939 (a) The Legislature finds and declares the following:

940 (1) Advertising by attorneys of their professional
941 services, in which they promote zealous advocacy on behalf of
942 injured or wronged consumers, is commercial speech protected
943 by Amendment I of the United States Constitution.

944 (2) When attorneys publicly advertise the results they
945 have obtained on behalf of clients in the form of monetary
946 amounts, consumers may be misled as to the complexity of the
947 civil litigation process, attorney fees, and the different
948 factors that influence the unique merits and value of each
949 lawsuit.

950 (3) Regulating how attorneys may advertise the
951 favorable results they have obtained for clients is a
952 necessary safeguard to prevent commercial speech from being



HB420 INTRODUCED

953 false or misleading and to prevent the integrity of our civil
954 justice system from being trivialized.

955 (b) An attorney who advertises his or her legal
956 services shall comply with all ethical restrictions contained
957 within the Alabama Rules of Professional Conduct.

958 (c) An advertisement for the legal services of an
959 attorney that includes a statement of results obtained,
960 including specific money amounts, shall be subject to the
961 following requirements:

962 (1) The results must be limited to results that are
963 full and final.

964 (2) The results must not be subject to pending judicial
965 review or alteration.

966 (3) The results must be verifiable by public record or
967 documentation.

968 (4) The results must be limited to the amount actually
969 recovered and actually paid to a client.

970 (d) Nothing in this section applies to statements made
971 on websites maintained and operated by an attorney or law
972 firm.

973 (e) An attorney who knowingly violates this section
974 engages in false advertising under Section 13A-9-42 and shall
975 be guilty of a Class B misdemeanor.

976 Section 12. Section 6-3-21.1, Code of Alabama 1975, is
977 amended to read as follows:

978 "§6-3-21.1

979 (a) With respect to civil actions filed in an
980 appropriate venue, any court of general jurisdiction ~~shall~~,



HB420 INTRODUCED

981 for the convenience of parties and witnesses, or in the
982 interest of justice, shall transfer any civil action or any
983 claim in any civil action to any court of general jurisdiction
984 in which the action might have been properly filed and the
985 case shall proceed as though originally filed therein.
986 Provided, however, this section shall not apply to cases
987 subject to Section 30-3-5 or Section 6-5-546.

988 (b) Where the cause of action arises in a venue other
989 than the venue in which the civil action is originally filed,
990 the court, in the interest of justice, shall order the
991 transfer of the civil action to the venue where the cause of
992 action arises if this venue is otherwise appropriate under the
993 applicable general venue statute.

994 ~~(b)~~ (c) The right of a party to move for a change or
995 transfer of venue pursuant to this ~~statute~~section is
996 cumulative and in addition to the rights of a party to move
997 for a change or transfer of venue pursuant to Section 6-3-20,
998 Section 6-3-21, or the Alabama Rules of Civil Procedure."

999 Section 13. This act applies to any civil action,
1000 administrative proceeding, claim, or cause of action commenced
1001 on or after the effective date of this act.

1002 Section 14. This act shall become effective on January
1003 1, 2025.