

1 *House* BILL NO. *782*
 2 INTRODUCED BY *Ramsey Hayden Scully, Date*
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OFFSET OF
 5 DAMAGES IN A PERSONAL INJURY OR WRONGFUL DEATH ACTION BY THE
 6 AMOUNT OF BENEFITS PAID OR PAYABLE FROM CERTAIN COLLATERAL
 7 SOURCES AND PROVIDING THAT EVIDENCE OF REMARRIAGE OF A
 8 SURVIVING SPOUSE IS ADMISSIBLE IN A WRONGFUL DEATH ACTION."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Damages offset by benefits from certain
 12 collateral sources. (1) In an action for damages for
 13 personal injury or wrongful death, damages shall be offset
 14 by the amount of benefits paid or payable by reason of such
 15 injury or death from or under the following collateral
 16 sources:

- 17 (a) the U.S. Social Security Act, as amended, or any
- 18 state or federal government benefit program;
- 19 (b) workers' compensation;
- 20 (c) any employee group insurance plan to which no
- 21 contribution is made by the employee; or
- 22 (d) gratuities which the claimant in such action has
- 23 no obligation to repay.
- 24 (2) Unless expressly provided by state or federal
- 25 statute, no collateral source described in subsection (1)

1 may be subrogated to the rights of a claimant for damages
 2 for personal injury or wrongful death. Whenever such express
 3 statutory right of subrogation does exist in any such
 4 collateral source with respect to a claim, subsection (1)
 5 does not apply with regard to that collateral source.
 6 Section 2. Evidence of remarriage admissible in
 7 wrongful death case. In any action for damages for wrongful
 8 death, evidence is admissible which tends to establish that
 9 the surviving spouse of the decedent has remarried.

-End-

INTRODUCED BILL

HB 782

Approved by Committee
on Judiciary

HOUSE BILL NO. 782

INTRODUCED BY RAMIREZ, KEYSER, SCULLY, PORTER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OFFSET OF DAMAGES IN A PERSONAL INJURY OR WRONGFUL DEATH ACTION BY THE AMOUNT OF BENEFITS PAID OR PAYABLE FROM CERTAIN COLLATERAL SOURCES AND PROVIDING THAT EVIDENCE OF REMARRIAGE OF A SURVIVING SPOUSE IS ADMISSIBLE IN A WRONGFUL DEATH ACTION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Damages offset by benefits from certain collateral sources. (1) In an action for damages for personal injury or wrongful death, damages shall be offset by the amount of benefits paid or BY THE PRESENT VALUE OF BENEFITS payable by reason of such injury or death from or under the following collateral sources:

(a) ~~the U.S. Social Security Act as amended~~ or any state or federal government benefit program, EXCEPT THE U.S.

SOCIAL SECURITY ACT, AS AMENDED;

(b) workers' compensation;

(c) any PRIVATE OR GOVERNMENTAL employee group insurance OR BENEFIT plan to which no contribution is made by the employee; or

(d) gratuities which the claimant in such action has no obligation to repay.

(2) Unless expressly provided by state or federal statute, no collateral source described in subsection (1) may be subrogated to the rights of a claimant for damages for personal injury or wrongful death. Whenever such express statutory right of subrogation does exist in any such collateral source with respect to a claim, subsection (1) does not apply with regard to that collateral source.

SECTION 2. APPLICATION TO COMPARATIVE NEGLIGENCE ACTIONS. WHENEVER THE COMPARATIVE NEGLIGENCE OF THE PARTIES IS AN ISSUE IN THE ACTION, THE OFFSET PROVIDED IN [SECTION 1] SHALL BE APPLIED TO THE TOTAL AMOUNT OF THE DAMAGES SUSTAINED BY THE CLAIMANT.

Section 3. Evidence of remarriage admissible in wrongful death case. In any action for damages for wrongful death, evidence is admissible which tends to establish that the surviving spouse of the decedent has remarried.

-End-

SECOND READING

1 HOUSE BILL NO. 782

2 INTRODUCED BY RAMIREZ, KEYSER, SCULLY, PORTER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OFFSET OF
5 DAMAGES IN A PERSONAL INJURY OR WRONGFUL DEATH ACTION BY THE
6 AMOUNT OF BENEFITS PAID OR PAYABLE FROM CERTAIN COLLATERAL
7 SOURCES AND PROVIDING THAT EVIDENCE OF REMARRIAGE OF A
8 SURVIVING SPOUSE IS ADMISSIBLE IN A WRONGFUL DEATH ACTION."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 collateral sources. (1) In an action for damages for
13 personal injury or wrongful death, damages shall be offset
14 by the amount of benefits paid or BY THE PRESENT VALUE OF
15 BENEFITS payable by reason of such injury or death from or
16 under the following collateral sources:

17 (a) ~~the U.S. Social Security Act, as amended, or any~~
18 ~~state or federal government benefit program, EXCEPT THE U.S.~~

19 SOCIAL SECURITY ACT, AS AMENDED;

20 (b) workers' compensation;

21 (c) any PRIVATE OR GOVERNMENTAL employee group
22 insurance OR BENEFIT plan to which no contribution is made
23 by the employee; or

24 (d) gratuities which the claimant in such action has
25 no obligation to repay.

1 (2) Unless expressly provided by state or federal
2 statute, no collateral source described in subsection (1)
3 may be subrogated to the rights of a claimant for damages
4 for personal injury or wrongful death. Whenever such express
5 statutory right of subrogation does exist in any such
6 collateral source with respect to a claim, subsection (1)
7 does not apply with regard to that collateral source.

8 SECTION 2. APPLICATION TO COMPARATIVE NEGLIGENCE
9 ACTIONS. WHENEVER THE COMPARATIVE NEGLIGENCE OF THE PARTIES
10 IS AN ISSUE IN THE ACTION, THE OFFSET PROVIDED IN [SECTION
11 1] SHALL BE APPLIED TO THE TOTAL AMOUNT OF THE DAMAGES
12 SUSTAINED BY THE CLAIMANT.

13 Section 3. Evidence of remarriage admissible in
14 wrongful death case. In any action for damages for wrongful
15 death, evidence is admissible which tends to establish that
16 the surviving spouse of the decedent has remarried.

-End-

THIRD READING