

HOUSE BILL NO. 695
INTRODUCED BY MCNUTT, GILLAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT ECONOMIC CONSUMPTION BE DEDUCTED FROM AN AWARD OF DAMAGES IN A MEDICAL MALPRACTICE ACTION; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, the provision of medical services to Montana residents is imperative to their health and happiness; and

WHEREAS, it is increasingly difficult for Montana communities to attract and retain qualified medical providers; and

WHEREAS, the acquisition of reasonably priced medical malpractice insurance coverage is a factor in attracting medical providers to Montana and in retaining them; and

WHEREAS, medical malpractice insurance premium rates are negatively impacted by the lack of a provision requiring deduction of personal consumption expenses from damage awards in survivor actions; and

WHEREAS, the Legislature has determined that a shortage of health care providers in the state and an inability to attract health care providers to the state would pose a serious threat to the health, welfare, and safety of Montanans; and

WHEREAS, the number of insurance carriers that provide liability insurance for hospitals, physicians, and dentists has declined significantly in the past few years; and

WHEREAS, dramatic hikes in the prices paid by hospitals, physicians, and dentists for liability insurance are a major contributor to the escalation in the cost of providing medical treatment; and

WHEREAS, increased premiums for liability insurance for health care providers are forcing physicians and other providers in Montana to consider either curtailing certain medical services or, in the alternative, relocating to other states where premiums are stabilized; and

WHEREAS, Montana and its residents have a compelling state interest in ensuring that Montana residents receive quality and reasonably priced health care; and

WHEREAS, the Legislature declares that it is the policy of the State of Montana to attempt to attract and retain qualified health care providers to care for the residents of Montana and that personal consumption expenses must be deducted from damages relating to survivor actions.

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

NEW SECTION. **Section 1. Economic consumption to be deducted from award.** If damages are awarded for a malpractice claim, as defined in 25-9-411, for a deceased ~~or disabled~~ party's lost future earnings, the deceased ~~or disabled~~ party's economic consumption must be deducted from the award. Economic consumption is the part of the projected earnings that the deceased ~~or disabled~~ party would have spent on basic necessities and personal expenditures throughout the party's lifetime.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 25, chapter 9, part 4, and the provisions of Title 25, chapter 9, part 4, apply to [section 1].

NEW SECTION. **Section 3. Applicability.** [This act] applies to a civil action begun after October 1, 2007.

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