

Senate Bill 499

By: Senators Johnson of the 1st, Cagle of the 49th and Williams of the 6th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 51-12-1 of the Official Code of Georgia Annotated, relating to types
2 of damages and evidence admissible in actions involving special damages, so as to revise the
3 provisions relating to the admissibility of evidence of previous or future right of payments
4 for economic losses; to provide for evidence of indemnification and subrogation of
5 payments; to provide for damage interrogatories for the jury; to provide for evidence of
6 damages in personal suits against medical professionals; to provide for related matters; to
7 provide for applicability; to provide an effective date; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Code Section 51-12-1 of the Official Code of Georgia Annotated, relating to types of
12 damages and evidence admissible in actions involving special damages, is amended by
13 striking subsection (b) of said Code section and inserting in lieu thereof the following:

14 ~~"(b) In any civil action, whether in tort or in contract, for the recovery of damages arising~~
15 ~~from a tortious injury in which special damages are sought to be recovered or evidence of~~
16 ~~same is otherwise introduced by the plaintiff, evidence of all compensation, indemnity,~~
17 ~~insurance (other than life insurance), wage loss replacement, income replacement, or~~
18 ~~disability benefits or payments available to the injured party from any and all governmental~~
19 ~~or private sources and the cost of providing and the extent of such available benefits or~~
20 ~~payments shall be admissible for consideration by the trier of fact. The trier of fact, in its~~
21 ~~discretion, may consider such available benefits or payments and the cost thereof but shall~~
22 ~~not be directed to reduce an award of damages accordingly.~~

23 (1) In any civil action seeking damages for personal injury, the court shall permit
24 evidence and argument as to the previous payment or future right of payment of actual
25 economic losses incurred or to be incurred as a result of the personal injury for necessary
26 medical care, rehabilitation services, and custodial care except to the extent that the

1 previous payment or future right of payment is pursuant to a state or federal program or
2 from assets of the claimant or the members of the claimant's immediate family.

3 (2) If evidence and argument regarding previous payments or future rights of payment
4 is permitted pursuant to paragraph (1) of this subsection, the court shall also permit
5 evidence and argument as to the costs to the claimant of procuring the previous payments
6 or future rights of payment and as to any existing rights of indemnification or subrogation
7 relating to the previous payments or future rights of payment.

8 (3) If evidence or argument is permitted pursuant to paragraph (1) or (2) of this
9 subsection, the court shall, unless otherwise agreed to by all parties, instruct the jury to
10 answer special interrogatories or, if there is no jury, shall make findings indicating the
11 effect of such evidence or argument on the verdict.

12 (c) In any civil action seeking damages for personal injury against a physician and
13 surgeon, osteopath, osteopathic physician and surgeon, dentist, podiatric physician,
14 optometrist, pharmacist, chiropractor, or nurse licensed to practice that profession in this
15 state or against a hospital licensed for operation in this state based on the alleged
16 negligence of the practitioner in the practice of the profession or occupation or upon the
17 alleged negligence of the hospital in patient care in which liability is admitted or
18 established, the damages awarded shall not include actual economic losses incurred or to
19 be incurred in the future by the claimant by reason of the personal injury including, but not
20 limited to, the cost of reasonable and necessary medical care, rehabilitation services, and
21 custodial care and the loss of services and loss of earned income to the extent that those
22 losses are replaced or are indemnified by insurance or by governmental, employment, or
23 service benefit programs or from any other source except the assets of the claimant or of
24 the members of the claimant's immediate family."

25 **SECTION 2.**

26 This Act shall apply only to causes of action arising on or after July 1, 2002.

27 **SECTION 3.**

28 This Act shall become effective on July 1, 2002.

29 **SECTION 4.**

30 All laws and parts of laws in conflict with this Act are repealed.