SB293

9E3ABPP-1

By Senator Orr

RFD: Judiciary

First Read: 04-Apr-24

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

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

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

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

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

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

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

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

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

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

A BILL

TO BE ENTITLED

AN ACT

Relating to civil actions; to add Article 4 to Chapter 21 of Title 12, Code of Alabama 1975, to regulate litigation financing agreements; to add Article 41 to Chapter 5 of Title 6, Code of Alabama 1975, to regulate the grounds for liability of an employer; to add Article 4 to Chapter 11 of Title 6, Code of Alabama 1975, to provide a definition for "noneconomic damages" and to limit liability therefor; to amend Section 12-21-45, Code of Alabama 1975, to further regulate evidence for recovery of damages for past and future medical care expenses; to add Section 12-21-46 to the Code of Alabama 1975, to set a limit on damages for the value of medical care; to amend Sections 6-5-522, 6-5-523, and 6-5-545, Code of Alabama 1975, to further regulate evidence in product liability and medical malpractice actions for recovery of damages for medical care expenses and to set a limit thereon; to repeal Section 6-5-524, Code of Alabama 1975, regulating evidence of third-party payments or reimbursements for medical and hospital expenses; to amend Section 12-21-160, Code of Alabama 1975, to further provide for a standard for the admission in evidence of expert testimony; to amend Sections 32-5B-2 and 32-5B-7, Code of Alabama 1975, to further provide for the definition of "passenger car" and the purposes for which evidence concerning the misuse or nonuse of a safety belt may be admitted; to add Section 34-3-26 to the Code of Alabama 1975, to regulate attorney advertising concerning damage awards obtained by an attorney and to provide a criminal penalty for a violation; and to amend Section 6-3-21.1, Code of Alabama 1975, to further provide for a change of venue.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Article 4

§12-21-500

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

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

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

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

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

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

§12-21-501

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

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

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

a. A citizen of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. A financial institution, as defined in Section 40-16-1, for repayment of a loan made directly to a party or a party's attorney when repayment of the loan is not contingent upon the outcome of a civil action, arbitration proceeding, administrative proceeding, claim, or cause of action by settlement, judgment, or otherwise, or on the outcome of any matter within a portfolio that includes the civil action, arbitration proceeding, administrative proceeding, claim, or cause of action and involves the same counsel or affiliated counsel.

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

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

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

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

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

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

§12-21-502

(a) A litigation financier may not direct, recommend, or make any decision with respect to the course of any civil action, arbitration proceeding, administrative proceeding, claim, cause of action, settlement, or other legal disposition in which the litigation financier is engaged in litigation financing. This prohibition includes, but is not limited to, decisions in appointing or changing counsel, choice of or use of expert witnesses, investigations, venue selection, discovery, and litigation strategy. All rights to control and decision-making with regard to the subject civil action, arbitration proceeding, administrative proceeding, claim, cause of action, settlement, or other legal disposition remain solely with the funded consumer and that funded consumer's attorney.

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

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

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

§12-21-503

A litigation financier may not do any of the following:

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

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

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

§12-21-504

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

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

(c) In addition to complying with subsections (a) and (b), for any action filed or certified as a class action in which litigation financing is involved, the class counsel of the putative class must disclose any legal, financial, or other relationship between the legal representative and a litigation financier to the individuals or entities listed in subsection (e).

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

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

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

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

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

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

(g)(1) A consumer that is a party, or the consumer's counsel of record, without awaiting a discovery request and within 30 days after the appearance of an opposing party in a civil action, arbitration proceeding, administrative proceeding, claim, or cause of action, or within 10 days after entering into a litigation financing agreement in a pending civil action, arbitration proceeding, administrative proceeding, claim, or cause of action, shall disclose in writing the name, address, and citizenship or nation of incorporation or registration of any foreign person, foreign principal, or sovereign wealth fund, other than the named parties or counsel of record, where any of the following applies:

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

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

c. The foreign person, foreign principal, or sovereign wealth fund receives or has the right to receive proprietary information or information related to national security interests obtained as a result of the civil action, arbitration proceeding, administrative proceeding, claim, or cause of action.

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

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

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

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

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

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

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

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

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

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

§12-21-505

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

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

(c) At the conclusion of any civil action, arbitration proceeding, administrative proceeding, claim, or cause of action, or the termination of a litigation financing agreement, whichever occurs first, the litigation financier shall return all documents, files, and materials, including all physical and electronic copies, to the person that provided the documents. Alternatively, within 30 days of the triggering event, the litigation financier shall certify in writing that it has used reasonable efforts to destroy all documents, files, and materials, including all physical and electronic copies.

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

§12-21-506

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

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

§12-21-507

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

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

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

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

Article 41

§6-5-820

The Legislature finds and declares the following:

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

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

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

§6-5-821

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

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

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

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

§6-5-822

(a) In any civil action where a dispute exists as to whether an individual is an independent contractor or an employee for the purposes of establishing vicarious liability, the existence of a valid written contract between the parties to which the relationship applies purporting to create an independent contractor relationship shall create a rebuttable presumption that the individual at issue is an independent contractor.

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

§6-5-823

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

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

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

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

(3) The employee was committing a felony offense.

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

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

§6-5-824

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

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

Article 4

§6-11-70

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

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

§6-11-71

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

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

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

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

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

"§12-21-45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. If the plaintiff obtains reasonable and necessary medical services or treatment under a letter of protection or on expectation of future payment and the health care provider subsequently transfers the right to receive payment under the letter of protection or account receivable to a factoring company or other third party, evidence of the amount the factoring company or other third party paid or agreed to pay the health care provider in exchange for the right to receive payment pursuant to the letter of protection or account receivable.

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

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

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

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

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

b. If the plaintiff is not covered by a medical care plan, evidence of the Medicare reimbursement rate in effect at the time of trial for the medical services or treatment the plaintiff will receive.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§12-21-46

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

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

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

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

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

"§6-5-522

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

"§6-5-523

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

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

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

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

"§6-5-545

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

(b) In such civil actions, ~~information respecting such reimbursement or payment obtained or such reimbursement or payment which may be obtained by the plaintiff for medical or hospital expenses shall be subject to discovery~~the amounts that may be recovered for the reasonable value of any reasonable and necessary medical services or treatment may not exceed the limits set forth in Section 12-21-46.

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

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

"§12-21-160

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

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

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

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

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

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

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

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

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

"§32-5B-2

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

"§32-5B-7

(a) Failure to wear a safety belt in violation of this chapter shall not be considered evidence of contributory negligence and shall not limit the liability of an insurer, nor shall the conviction be entered on the driving record of any individual charged under the provisions of this chapter.

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

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

§34-3-26

(a) The Legislature finds and declares the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

"§6-3-21.1

(a) With respect to civil actions filed in an appropriate venue, any court of general jurisdiction ~~shall~~, for the convenience of parties and witnesses, or in the interest of justice, shall transfer any civil action or any claim in any civil action to any court of general jurisdiction in which the action might have been properly filed and the case shall proceed as though originally filed therein. Provided, however, this section shall not apply to cases subject to Section 30-3-5 or Section 6-5-546.

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

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

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

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