

FIRST REGULAR SESSION  
[P E R F E C T E D]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 237**  
99TH GENERAL ASSEMBLY

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Reported from the Committee on Government Reform, January 26, 2017, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 237, adopted February 13, 2017.

Taken up for Perfection February 13, 2017. Bill declared Perfected and Ordered Printed, as amended.

1000S.02P

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal section 538.205, RSMo, and to enact in lieu thereof one new section relating to the liability of an employee of a health care provider.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 538.205, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 538.205, to read as follows:  
538.205. As used in sections 538.205 to 538.230, the following terms shall  
2 mean:  
3 (1) "Catastrophic personal injury", a physical injury resulting in:  
4 (a) Quadriplegia defined as the permanent loss of functional use of all  
5 four limbs;  
6 (b) Paraplegia defined as the permanent loss of functional use of two  
7 limbs;  
8 (c) Loss of two or more limbs;  
9 (d) An injury to the brain that results in permanent cognitive impairment  
10 resulting in the permanent inability to make independent decisions or engage in  
11 one or more of the following activities of daily living: eating, dressing, bathing,  
12 toileting, transferring, and walking;  
13 (e) An injury that causes irreversible failure of one or more major organ  
14 systems; or  
15 (f) Vision loss such that the patient's central visual acuity is no more than  
16 twenty/two-hundred in the better eye with the best correction or whose field of  
17 vision in the better eye is restricted to a degree that its widest diameter subtends

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 an angle no greater than twenty degrees;

19 (2) "Economic damages", damages arising from pecuniary harm including,  
20 without limitation, medical damages, and those damages arising from lost wages  
21 and lost earning capacity;

22 (3) **"Employee", any person or entity who either works for a**  
23 **health care provider for compensation paid directly by said health care**  
24 **provider to the person or entity or under a written employment**  
25 **contract between said health care provider and the person or entity;**

26 (4) "Equitable share", the share of a person or entity in an obligation that  
27 is the same percentage of the total obligation as the person's or entity's allocated  
28 share of the total fault, as found by the trier of fact;

29 [(4)] (5) "Future damages", damages that the trier of fact finds will  
30 accrue after the damages findings are made;

31 [(5)] (6) "Health care provider", any physician, hospital, health  
32 maintenance organization, ambulatory surgical center, long-term care facility  
33 including those licensed under chapter 198, dentist, registered or licensed  
34 practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional  
35 physical therapist, psychologist, physician-in-training, and any other person or  
36 entity that provides health care services under the authority of a license or  
37 certificate;

38 [(6)] (7) "Health care services", any services that a health care provider  
39 renders to a patient in the ordinary course of the health care provider's profession  
40 or, if the health care provider is an institution, in the ordinary course of  
41 furthering the purposes for which the institution is organized. Professional  
42 services shall include, but are not limited to, transfer to a patient of goods or  
43 services incidental or pursuant to the practice of the health care provider's  
44 profession or in furtherance of the purposes for which an institutional health care  
45 provider is organized;

46 [(7)] (8) "Medical damages", damages arising from reasonable expenses  
47 for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental,  
48 custodial and other health and rehabilitative services;

49 [(8)] (9) "Noneconomic damages", damages arising from nonpecuniary  
50 harm including, without limitation, pain, suffering, mental anguish,  
51 inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life,  
52 and loss of consortium but shall not include punitive damages;

53 [(9)] (10) "Past damages", damages that have accrued when the damages

54 findings are made;

55           [(10) "Physician employee", any person or entity who works for hospitals  
56 for a salary or under contract and who is covered by a policy of insurance or  
57 self-insurance by a hospital for acts performed at the direction or under control  
58 of the hospital;]

59           (11) "Punitive damages", damages intended to punish or deter willful,  
60 wanton or malicious misconduct, including exemplary damages and damages for  
61 aggravating circumstances;

62           (12) "Self-insurance", a formal or informal plan of self-insurance or no  
63 insurance of any kind.

Unofficial ✓

Bill

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