

SECOND REGULAR SESSION

# SENATE BILL NO. 1052

100TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR EIGEL.

Read 1st time February 26, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5623S.011

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## AN ACT

To repeal section 287.140, RSMo, and to enact in lieu thereof one new section relating to workers' compensation, with existing penalty provisions.

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

Section A. Section 287.140, RSMo, is repealed and one new section enacted  
2 in lieu thereof, to be known as section 287.140, to read as follows:

287.140. 1. In addition to all other compensation paid to the employee  
2 under this section, the employee shall receive and the employer shall provide such  
3 medical, surgical, chiropractic, and hospital treatment, including nursing,  
4 custodial, ambulance and medicines, as may reasonably be required after the  
5 injury or disability, to cure and relieve from the effects of the injury. If the  
6 employee desires, he shall have the right to select his own physician, surgeon, or  
7 other such requirement at his own expense. Where the requirements are  
8 furnished by a public hospital or other institution, payment therefor shall be made  
9 to the proper authorities. Regardless of whether the health care provider is  
10 selected by the employer or is selected by the employee at the employee's expense,  
11 the health care provider shall have the affirmative duty to communicate fully with  
12 the employee regarding the nature of the employee's injury and recommended  
13 treatment exclusive of any evaluation for a permanent disability rating. Failure  
14 to perform such duty to communicate shall constitute a disciplinary violation by  
15 the provider subject to the provisions of chapter 620. When an employee is  
16 required to submit to medical examinations or necessary medical treatment at a  
17 place outside of the local or metropolitan area from the employee's principal place  
18 of employment, the employer or its insurer shall advance or reimburse the  
19 employee for all necessary and reasonable expenses; except that an injured  
20 employee who resides outside the state of Missouri and who is employed by an

21 employer located in Missouri shall have the option of selecting the location of  
22 services provided in this section either at a location within one hundred miles of  
23 the injured employee's residence, place of injury or place of hire by the  
24 employer. The choice of provider within the location selected shall continue to be  
25 made by the employer. In case of a medical examination if a dispute arises as to  
26 what expenses shall be paid by the employer, the matter shall be presented to the  
27 legal advisor, the administrative law judge or the commission, who shall set the  
28 sum to be paid and same shall be paid by the employer prior to the medical  
29 examination. In no event, however, shall the employer or its insurer be required  
30 to pay transportation costs for a greater distance than two hundred fifty miles  
31 each way from place of treatment.

32         2. If it be shown to the division or the commission that the requirements  
33 are being furnished in such manner that there is reasonable ground for believing  
34 that the life, health, or recovery of the employee is endangered thereby, the  
35 division or the commission may order a change in the physician, surgeon, hospital  
36 or other requirement.

37         3. All fees and charges under this chapter shall be fair and reasonable,  
38 shall be subject to regulation by the division or the commission, or the board of  
39 rehabilitation in rehabilitation cases. A health care provider shall not charge a  
40 fee for treatment and care which is governed by the provisions of this chapter  
41 greater than the usual and customary fee the provider receives for the same  
42 treatment or service when the payor for such treatment or service is a private  
43 individual or a private health insurance carrier. The division or the commission,  
44 or the board of rehabilitation in rehabilitation cases, shall also have jurisdiction  
45 to hear and determine all disputes as to such charges. A health care provider is  
46 bound by the determination upon the reasonableness of health care bills.

47         4. The division shall, by regulation, establish methods to resolve disputes  
48 concerning the reasonableness of medical charges, services, or aids. This  
49 regulation shall govern resolution of disputes between employers and medical  
50 providers over fees charged, whether or not paid, and shall be in lieu of any other  
51 administrative procedure under this chapter. The employee shall not be a party  
52 to a dispute over medical charges, nor shall the employee's recovery in any way  
53 be jeopardized because of such dispute. Any application for payment of additional  
54 reimbursement, as such term is used in 8 CSR 50- 2.030, as amended, shall be  
55 filed not later than:

56         (1) Two years from the date the first notice of dispute of the medical

57 charge was received by the health care provider if such services were rendered  
58 before July 1, 2013; and

59 (2) One year from the date the first notice of dispute of the medical charge  
60 was received by the health care provider if such services were rendered after July  
61 1, 2013.

62 Notice shall be presumed to occur no later than five business days after  
63 transmission by certified United States mail.

64 5. No compensation shall be payable for the death or disability of an  
65 employee, if and insofar as the death or disability may be caused, continued or  
66 aggravated by any unreasonable refusal to submit to any medical or surgical  
67 treatment or operation, the risk of which is, in the opinion of the division or the  
68 commission, inconsiderable in view of the seriousness of the injury. If the  
69 employee dies as a result of an operation made necessary by the injury, the death  
70 shall be deemed to be caused by the injury.

71 6. The testimony of any physician or chiropractic physician who treated  
72 the employee shall be admissible in evidence in any proceedings for compensation  
73 under this chapter, subject to all of the provisions of section 287.210.

74 7. Every hospital or other person furnishing the employee with medical aid  
75 shall permit its record to be copied by and shall furnish full information to the  
76 division or the commission, the employer, the employee or his dependents and any  
77 other party to any proceedings for compensation under this chapter, and certified  
78 copies of the records shall be admissible in evidence in any such proceedings.

79 8. The employer may be required by the division or the commission to  
80 furnish an injured employee with artificial legs, arms, hands, surgical orthopedic  
81 joints, or eyes, or braces, as needed, for life whenever the division or the  
82 commission shall find that the injured employee may be partially or wholly  
83 relieved of the effects of a permanent injury by the use thereof. The director of  
84 the division shall establish a procedure whereby a claim for compensation may be  
85 reactivated after settlement of such claim is completed. The claim shall be  
86 reactivated only after the claimant can show good cause for the reactivation of this  
87 claim and the claim shall be made only for the payment of medical procedures  
88 involving life-threatening surgical procedures or if the claimant requires the use  
89 of a new, or the modification, alteration or exchange of an existing, prosthetic  
90 device. For the purpose of this subsection, "life threatening" shall mean a  
91 situation or condition which, if not treated immediately, will likely result in the  
92 death of the injured worker.

93 9. Nothing in this chapter shall prevent an employee being provided  
94 treatment for his injuries by prayer or spiritual means if the employer does not  
95 object to the treatment.

96 10. The employer shall have the right to select the licensed treating  
97 physician, surgeon, chiropractic physician, or other health care provider; provided,  
98 however, that such physicians, surgeons or other health care providers shall offer  
99 only those services authorized within the scope of their licenses. **Health carriers**  
100 **shall include in workers' compensation networks those treating**  
101 **physicians, surgeons, chiropractic physicians, or other health care**  
102 **providers who offer services authorized pursuant to this section.** For the  
103 purpose of this subsection, subsection 2 of section 287.030 shall not apply.

104 11. Any physician or other health care provider who orders, directs or  
105 refers a patient for treatment, testing, therapy or rehabilitation at any institution  
106 or facility shall, at or prior to the time of the referral, disclose in writing if such  
107 health care provider, any of his partners or his employer has a financial interest  
108 in the institution or facility to which the patient is being referred, to the following:

- 109 (1) The patient;  
110 (2) The employer of the patient with workers' compensation liability for the  
111 injury or disease being treated;  
112 (3) The workers' compensation insurer of such employer; and  
113 (4) The workers' compensation adjusting company for such insurer.

114 12. Violation of subsection 11 of this section is a class A misdemeanor.

115 13. (1) No hospital, physician or other health care provider, other than a  
116 hospital, physician or health care provider selected by the employee at his own  
117 expense pursuant to subsection 1 of this section, shall bill or attempt to collect any  
118 fee or any portion of a fee for services rendered to an employee due to a  
119 work-related injury or report to any credit reporting agency any failure of the  
120 employee to make such payment, when an injury covered by this chapter has  
121 occurred and such hospital, physician or health care provider has received actual  
122 notice given in writing by the employee, the employer or the employer's  
123 insurer. Actual notice shall be deemed received by the hospital, physician or  
124 health care provider five days after mailing by certified mail by the employer or  
125 insurer to the hospital, physician or health care provider.

- 126 (2) The notice shall include:  
127 (a) The name of the employer;  
128 (b) The name of the insurer, if known;

129 (c) The name of the employee receiving the services;

130 (d) The general nature of the injury, if known; and

131 (e) Where a claim has been filed, the claim number, if known.

132 (3) When an injury is found to be noncompensable under this chapter, the  
133 hospital, physician or other health care provider shall be entitled to pursue the  
134 employee for any unpaid portion of the fee or other charges for authorized services  
135 provided to the employee. Any applicable statute of limitations for an action for  
136 such fees or other charges shall be tolled from the time notice is given to the  
137 division by a hospital, physician or other health care provider pursuant to  
138 subdivision (6) of this subsection, until a determination of noncompensability in  
139 regard to the injury which is the basis of such services is made, or in the event  
140 there is an appeal to the labor and industrial relations commission, until a  
141 decision is rendered by that commission.

142 (4) If a hospital, physician or other health care provider or a debt collector  
143 on behalf of such hospital, physician or other health care provider pursues any  
144 action to collect from an employee after such notice is properly given, the employee  
145 shall have a cause of action against the hospital, physician or other health care  
146 provider for actual damages sustained plus up to one thousand dollars in  
147 additional damages, costs and reasonable attorney's fees.

148 (5) If an employer or insurer fails to make payment for authorized services  
149 provided to the employee by a hospital, physician or other health care provider  
150 pursuant to this chapter, the hospital, physician or other health care provider may  
151 proceed pursuant to subsection 4 of this section with a dispute against the  
152 employer or insurer for any fees or other charges for services provided.

153 (6) A hospital, physician or other health care provider whose services have  
154 been authorized in advance by the employer or insurer may give notice to the  
155 division of any claim for fees or other charges for services provided for a  
156 work-related injury that is covered by this chapter, with copies of the notice to the  
157 employee, employer and the employer's insurer. Where such notice has been filed,  
158 the administrative law judge may order direct payment from the proceeds of any  
159 settlement or award to the hospital, physician or other health care provider for  
160 such fees as are determined by the division. The notice shall be on a form  
161 prescribed by the division.

162 14. The employer may allow or require an employee to use any of the  
163 employee's accumulated paid leave, personal leave, or medical or sick leave to  
164 attend to medical treatment, physical rehabilitation, or medical evaluations during

165 work time. The intent of this subsection is to specifically supercede and abrogate  
166 any case law that contradicts the express language of this section.

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