

SENATE BILL NO. 618

May 26, 1999, Introduced by Senators HAMMERSTROM, JOHNSON and
MC COTTER and referred to the Committee on Health Policy.

A bill to establish a lien for certain medical services rendered to crime and tort victims; to provide for the powers and duties of certain officials; and to encourage hospitals and physicians to extend services and facilities to indigent and uninsured persons.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "hospital lien act".

3 Sec. 2. (1) A health care provider has a lien against any
4 recovery obtained by an individual, or his or her representative,
5 who is treated by the health care provider for injuries arising
6 from the act or acts that are the subject of a lawsuit or tort
7 claim for which the recovery is obtained.

1 (2) Subject to proceedings under section 6, a lien described
2 in subsection (1) is in the amount of the reasonable and
3 customary charges for the medical services provided by the health
4 care provider to treat the injury that are not paid by the indi-
5 vidual or another person.

6 Sec. 3. (1) A lien authorized under this act is perfected
7 by either of the following means:

8 (a) Within 30 days after medical treatment described in sec-
9 tion 2 is provided, serving written notice of the lien upon the
10 individual who received the medical treatment described in sec-
11 tion 2, the person legally responsible for that individual, or
12 the estate of that individual.

13 (b) Not less than 5 business days before entry of judgment,
14 serving written notice of the lien to the court in which a law-
15 suit described in section 2 has been filed.

16 (2) A written notice required under this section shall spec-
17 ify the amount of the lien, and may be served by any mail that
18 records proof and receipt of mailing.

19 Sec. 4. Except as otherwise provided by law, a lien perfec-
20 ted in accordance with this act shall take priority over all
21 other liens, including, but not limited to, an attorney's lien,
22 and shall be paid directly from the proceeds of the recovery.

23 Sec. 5. (1) Except as provided in subsections (3) and (4),
24 the person or persons from whom the recovery was obtained shall
25 indemnify a lienholder for the full amount of the lien, regard-
26 less of the terms of the recovery.

1 (2) Subject to subsection (3), a lienholder who is not paid
2 the amount of the lien at or before the time recovery is obtained
3 by the individual who was injured may recover the amount of the
4 lien from the person or persons from whom the recovery was
5 obtained if the person or persons had notice of the lien.

6 (3) A lienholder described in subsection (2) shall file suit
7 against the person or persons from whom recovery was obtained not
8 more than 1 year from the date the lienholder receives actual
9 notice of the recovery. The lien of a lienholder who fails to
10 file suit within the time described in this subsection is void.

11 (4) A lienholder may in its discretion agree to accept an
12 amount that is less than the amount of the lien in satisfaction
13 of the lien.

14 Sec. 6. A party that disputes the accuracy or reasonable-
15 ness of a lien authorized under this act may request a hearing
16 before the court in which the lawsuit, if any, is filed. The
17 individual who received the medical treatment that is the subject
18 of the lien shall waive his or her right to confidentiality con-
19 cerning records and treatment reasonably related to the dispute.
20 However, the scope of the waiver is limited to only that informa-
21 tion necessary to determine the issues of accuracy or reasonable-
22 ness of the lien, or both.

23 Sec. 7. If an injured individual described in section 2
24 receives medical treatment for which payment is not made, and he
25 or she does not pursue a tort claim or other action for compensa-
26 tion for the injuries, the health care provider has the right of
27 subrogation of the individual's interest in or right to

1 compensation, but only to the extent of the lien. A lien under
2 this section is equal to the unpaid reasonable and customary
3 charges for the medical treatment. If the health care provider
4 does not exercise this right of subrogation within 1 year of the
5 date that the health care provider receives actual notice that
6 the individual will not pursue his or her tort claim, the right
7 is extinguished.

8 Sec. 8. (1) This act is remedial and shall be liberally
9 construed to secure the beneficial results, intents, and purposes
10 of this act. Substantial compliance with the provisions of this
11 act is sufficient to create a valid lien under this act and to
12 give jurisdiction to the court to enforce this act.

13 (2) This act does not prevent a lienholder from maintaining
14 a separate action on a contract.

15 Sec. 9. As used in this act:

16 (a) "Health care provider" means a health professional or
17 health facility as those terms are defined in sections 12601 and
18 21005 of the public health code, 1978 PA 368, MCL 333.12601 and
19 333.21005.

20 (b) "Lienholder" means a health care provider who has a lien
21 or an interest in a lien described in section 2.

22 (c) "Medical services" means all medical services provided
23 by a health care provider to an individual for injuries described
24 in section 2.

25 (d) "Person" means an individual, partnership, corporation,
26 association, governmental entity, or other legal entity.

1 (e) "Recovery" means a judgment, settlement, or any other
2 form of compensation obtained in satisfaction or partial
3 satisfaction of an injury suffered by an individual described in
4 section 2.