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SENATE BILL NO. 535

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact § 8.01-417 of the Code of Virginia, relating to personal injury claim; disclosure of insurance policy limits.*

Patron—Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-417 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-417. Copies of written statements or transcriptions of verbal statements by injured person to be delivered to him; copies of subpoenaed documents to be provided to other party; disclosure of insurance policy limits.

A. Any person who takes from a person who has sustained a personal injury a signed written statement or voice recording of any statement relative to such injury shall deliver to such injured person a copy of such written statement forthwith or a verified typed transcription of such recording within 30 days from the date such statement was given or recording made, when and if the statement or recording is transcribed or in all cases when requested by the injured person or his attorney.

B. Unless otherwise ordered for good cause shown, when one party to a civil proceeding subpoenaed documents, the subpoenaing party, upon receipt of the subpoenaed documents, shall, if requested in writing, provide true and full copies of the same to any other party or to the attorney for any other party, provided the other party or attorney for the other party pays the reasonable cost of copying or reproducing the subpoenaed documents. This provision does not apply where the subpoenaed documents are returnable to and maintained by the clerk of court in which the action is pending.

C. After he gives written notice that he represents an injured person, an attorney, or an individual injured in a motor vehicle accident if he is not represented by counsel, may, prior to the filing of a civil action for personal injuries sustained as a result of a motor vehicle accident, request in writing that the insurer disclose (i) the limits of liability of any motor vehicle liability or any personal injury liability insurance policy that may be applicable to the claim and (ii) the physical address, if known, of the alleged tortfeasor who is insured by the insurer, if not previously reported to the requesting party. The requesting party shall provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged tortfeasor if it has been reported to the requesting party, a copy of the accident report, if any, and the claim number, if available. The insurer shall provide the alleged tortfeasor's physical address within 30 days of the receipt of the request. When requesting the limits of liability, the requesting party shall also submit to the insurer the injured person's medical records, medical bills, and wage-loss documentation, if applicable, pertaining to the claimed injury. If (a) the total of the medical bills and wage losses submitted equals or exceeds \$12,500 or (b) regardless of the amount of losses, the alleged tortfeasor was convicted of an offense under § 18.2-51.4, 18.2-266, 18.2-266.1, or 46.2-341.24 and the injured person's injuries arose from the same incident that resulted in such conviction, the insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time of the accident of all such policies, regardless of whether the insurer contests the applicability of the policy to the injured person's claim, and the insured's address. Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

D. After he gives written notice that he represents the personal representative of the estate of a decedent who died as a result of a motor vehicle accident, an attorney, or the personal representative of the estate of the decedent who died as a result of a motor vehicle accident if he is not represented by counsel, may, prior to the filing of a civil action for wrongful death as a result of a motor vehicle accident, request in writing that the insurer disclose (i) the limits of liability of any motor vehicle liability insurance policy or any personal injury liability insurance policy that may be applicable to the claim and (ii) the physical address, if known, of the alleged tortfeasor who is insured by the insurer, if not previously reported to the requesting party. The requesting party shall provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged tortfeasor if it has been reported to the requesting party, a copy of the accident report, if any, and the claim number, if available. The insurer shall provide the alleged tortfeasor's physical address within 30 days of the receipt of the request. When requesting the limits of liability, the requesting party shall submit to the insurer the

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59 death certificate of the decedent; the certificate of qualification of the personal representative of the
60 decedent's estate; the names and relationships of the statutory beneficiaries of the decedent; medical
61 bills, if any, supporting a claim for damages under subdivision 3 of § 8.01-52; and, if at the time the
62 request is made a claim for damages under clause (i) of subdivision 2 of § 8.01-52 is anticipated, a
63 description of the source, amount, and payment history of the claimed income loss for each beneficiary.
64 The insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits
65 of liability at the time of the accident of all such policies, regardless of whether the insurer contests the
66 applicability of the policy to the personal representative's claim, and the insured's address. Disclosure of
67 the policy limits under this section shall not constitute an admission that the alleged death or other
68 damage is subject to the policy. Information concerning the insurance policy is not by reason of
69 disclosure pursuant to this subsection admissible as evidence at trial.

70 E. For purposes of subsections C and D, if the alleged tortfeasor has insurance coverage from a
71 self-insured locality for a motor vehicle accident, as described in this section, and the locality is
72 authorized by the alleged tortfeasor to accept service of process on behalf of the alleged tortfeasor and
73 agrees to do so, the locality, in its discretion and instead of disclosing the alleged tortfeasor's home
74 address, may disclose the insured's work address and the name and address of the person who shall
75 accept service of process on behalf of the alleged tortfeasor. If the locality makes such a disclosure, the
76 locality shall not be required to disclose the alleged tortfeasor's home address.

77 F. As used in subsections C and D, "insurer" does not include the insurance agency or the insurance
78 agent representing the alleged tortfeasor as the authorized representative or agent with respect to the
79 alleged tortfeasor's motor vehicle insurance policy.