

Introduced by

1 A BILL for an Act to amend and reenact section 26.1-41-01 of the North Dakota Century Code,
2 relating to the definitions of accidental bodily injury and medical expenses for no-fault motor
3 vehicle insurance.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 26.1-41-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-41-01. Definitions.** As used in this chapter:

- 8 1. "Accidental bodily injury" means bodily injury, sickness, or disease, ~~including in~~
9 excess of two hundred fifty dollars per person per accident or death resulting
10 ~~therefrom~~, arising out of the operation of a motor vehicle, and which is accidental
11 as to the person claiming basic or optional excess no-fault benefits.
- 12 2. "Basic no-fault benefits" means benefits for economic loss resulting from accidental
13 bodily injury. The maximum amount of basic no-fault benefits payable for all
14 economic loss incurred and resulting from accidental bodily injury to any one
15 person as the result of any one accident may not exceed thirty thousand dollars,
16 regardless of the number of persons entitled to the benefits or the number of basic
17 no-fault insurers obligated to pay the benefits. Basic no-fault benefits payable may
18 not exceed one hundred fifty dollars per week per person prorated for any lesser
19 period for work loss or survivors' income loss, or three thousand five hundred
20 dollars for funeral, cremation, and burial expenses.
- 21 3. "Basic no-fault insurer" means an insurer or a qualified self-insurer.
- 22 4. "Bus" means:

- a. Any motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.
- b. Any motor vehicle owned by a charitable, religious, educational, or governmental corporation or organization designed for carrying more than ten passengers and used for the transportation of persons not for compensation.
- c. Any motor vehicle owned by a political subdivision and operated as part of a public transit system in which all or a portion of the costs of operation are subsidized by the political subdivision or the federal government.

5. "Dependent survivors" means the surviving spouse of a deceased injured person if residing in the deceased's household at the time of the deceased's death, and other persons receiving support from the deceased injured person at the time of the deceased's death which would qualify them as dependents of the deceased for federal income tax purposes under the federal Internal Revenue Code. The dependency of a surviving spouse terminates upon remarriage.

6. "Disability" means the inability to engage in substantially all of the injured person's usual and customary daily activities.

7. "Economic loss" means medical expenses, rehabilitation expenses, work loss, replacement services loss, survivors' income loss, survivors' replacement services loss, and funeral, cremation, and burial expenses.

8. "Injured person" means a person who sustains accidental bodily injury.

9. "Medical expenses" means ~~reasonable~~ usual and customary charges incurred for reasonable and necessary medical, surgical, x-ray, dental, prosthetic, ambulance, hospital, or professional nursing services or services for remedial treatment and care ~~rendered in accordance with a recognized religious healing method. Medical expenses do.~~ The term does not include that:

- a. The portion of the charge for a room in any hospital, clinic, convalescent or nursing home, extended care facility, or any similar facility in excess of the reasonable and customary charge for semiprivate accommodations unless intensive care is medically needed.
- b. Charges for drugs sold without a prescription.

1 c. Charges for experimental treatments.

2 d. Charges for medically unproven treatments.

3 10. "Motor vehicle" means a vehicle having more than three load-bearing wheels, of a
4 kind required to be registered under the laws of this state relating to motor
5 vehicles, designed primarily for operation upon the public streets, roads, and
6 highways, and driven by power other than muscular power, and includes a trailer
7 drawn by or attached to such a vehicle.

8 11. "Noneconomic loss" means pain, suffering, inconvenience, and other nonpecuniary
9 damage recoverable under the tort law of this state.

10 12. "Occupying" means to be in or upon a motor vehicle or engaged in the immediate
11 act of entering into or alighting from the motor vehicle.

12 13. "Operation of a motor vehicle" means operation, maintenance, or use of a motor
13 vehicle as a vehicle. Operation of a motor vehicle does not include conduct within
14 the course of a business of repairing, servicing, or otherwise maintaining motor
15 vehicles unless the injury occurs off the business premises, or conduct in the
16 course of loading and unloading the vehicle unless the injury occurs while
17 occupying it.

18 14. "Owner" means the person in whose name the motor vehicle has been registered.
19 If ownership has been transferred, but the registration record has not been
20 changed, "owner" means the person, other than a lienholder, to whom ownership
21 has been transferred. If no registration is in effect at the time of an accident
22 involving the motor vehicle, "owner" means the person, other than a lienholder,
23 who holds the legal title to the motor vehicle. If the motor vehicle is the subject of a
24 security agreement with the debtor having the right to possession, a lease with an
25 option to purchase with the lessee having the right to possession, or a lease with a
26 term of six months or more with the lessee having the right to possession, "owner"
27 means the debtor or lessee.

28 15. "Pedestrian" means any person not occupying any vehicle designed to be driven or
29 drawn by power other than muscular power.

30 16. "Rehabilitation expense" means the cost of a procedure or treatment for
31 rehabilitation or a course of rehabilitative occupational training if the procedure,

1 treatment, or training is reasonable and appropriate for the particular case, its cost
2 is reasonable in relation to its probable rehabilitative effects, and it is likely to
3 contribute substantially to medical or occupational rehabilitation.

4 17. "Relative" means any of the following residing in the same household as the
5 owner: a person related to the owner by blood, marriage, or adoption, or a foster
6 child. A person resides in the same household if that person usually makes a
7 home in the same family unit, even though temporarily living elsewhere.

8 18. "Replacement services loss" means expenses not exceeding fifteen dollars per day
9 in obtaining ordinary and necessary services from others not members of the
10 injured person's household in lieu of those that the injured person would have
11 performed had the injured person not been injured, not for income but for the
12 benefit of the injured person or the injured person's household. Replacement
13 services loss does not include any loss after the death of an injured person.

14 19. "Secured motor vehicle" means a motor vehicle with respect to which the security
15 required by this chapter was in effect at the time of its involvement in the accident
16 resulting in accidental bodily injury.

17 20. "Secured person" means the owner, operator, or occupant of a secured motor
18 vehicle, and any other person legally responsible for the acts or omissions of the
19 owner, operator, or occupant.

20 21. "Serious injury" means an accidental bodily injury which results in death,
21 dismemberment, serious and permanent disfigurement or disability beyond sixty
22 days, or medical expenses in excess of two thousand five hundred dollars. An
23 injured person who is furnished the services in subsection 9 without charge or at
24 less than the average reasonable charge for the service in this state is deemed to
25 have sustained a serious injury if a court determines that the fair and reasonable
26 value of the services exceeds two thousand five hundred dollars.

27 22. "Survivors' income loss" means loss sustained after an injured person's death by
28 dependent survivors during their dependency and consisting of the loss of the
29 contributions they would have received for their support from the decedent out of
30 income from work the decedent would normally have performed had the decedent
31 not died.

- 1 23. "Survivors' replacement services loss" means expenses, not to exceed fifteen
2 dollars per day after the injured person's death, by dependent survivors in
3 obtaining ordinary and necessary services from others not members of the
4 decedent's household in lieu of the services the decedent would have performed
5 not for income but for the benefit of the decedent's household.
- 6 24. "Work loss" means eighty-five percent of loss of income from work an injured
7 person who would normally be employed in gainful activity during the period of
8 disability would have performed had the person not been injured, reduced by any
9 income from substitute work actually performed by the injured person or by income
10 the injured person would have earned in available appropriate substitute work that
11 the injured person was capable of performing but unreasonably failed to undertake.
12 Work loss does not include any loss after death of an injured person.