

LEGISLATIVE BILL 191

Approved by the Governor February 10, 1988

Introduced by Pappas, 42; Bernard-Stevens, 42

AN ACT relating to civil procedure; to define a term; and to provide for a rebuttable presumption about certain statements from injured persons as prescribed.

Be it enacted by the people of the State of Nebraska,

Section 1. As used in this act, unless the context otherwise requires, statement shall mean a recorded or written account of the facts out of which an injury arose given by the injured person to a person having an adverse interest. Statement shall not include (1) insurance claims forms, (2) medical authorizations, or (3) personal injury or accident report forms which are completed when an adverse person is not present.

Sec. 2. (1) There shall be a rebuttable presumption that any statement secured from an injured person by an adverse person at any time within thirty days after such injuries were sustained shall have been taken under duress for purposes of a trial of any action for damages for injuries sustained by such person or for the death of such person as the result of such injuries.

(2) The presumption described in subsection (1) of this section may be rebutted by evidence. The presumption shall be deemed rebutted as a matter of law if the adverse person taking the statement discloses to the injured person prior to taking the statement:

(a) Whom he or she represents;

(b) That the injured person may make the statement in the presence of counsel or any other representative; and

(c) That a copy of the statement is available at no cost to the injured person.

Sec. 3. Nothing in this act shall be construed to supersede, abrogate, or limit any common law remedies available to any injured person who has given a statement.