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## Judiciary Committee

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### SSB 5028

**Title:** An act relating to the legal presumption from certification of medical records.

**Brief Description:** Establishing the legal presumption of reasonable value from the certification of health care records.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Franklin and Regala).

<p style="text-align: center;"><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>· A certified health care billing statement is presumed to reflect the usual and customary charge for health care treatment.</li></ul>
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**Hearing Date:** 2/21/02

**Staff:** Bill Perry (786-7123).

**Background:**

Under the state's law governing the disclosure of health care information, a health care provider must, upon proper request and payment of a fee, certify a patient's health care records. A request for certified records may be made by a patient, and under some circumstances by others. Such requests need not be, but may be made as part of the discovery process in a lawsuit.

In a personal injury lawsuit, an injured claimant not only bears the burden of demonstrating the defendant's responsibility for the injury, but also bears the burden of proving damages. Those damages often include the cost of past and future medical treatments required by the claimant's injury. The measure of such costs is the amount that is "usual and customary" in the community in which the treatment was provided.

The standard of "usual and customary" is also used in several statutory provisions relating to health care treatment. Such treatment may or may not be related to an injury for which someone is potentially liable. For example, the law that requires mental health treatment coverage by health maintenance organizations (HMOs) allows health care insurers, contractors, and the HMOs to set "usual and customary" rates for treatment. This same

standard also appears in other statutes in the insurance code relating to disability services and health care services. It is also used by the Department of Social and Health Services in audits of medicare service providers.

**Summary of Bill:**

A health care provider's certification of its billing statement creates the presumption that the statement is the reasonable value of the treatment provided.

A certified billing statement is admissible to establish the "usual and customary" charges for treatment in a community.

The presumption that charges are "reasonable and customary" may be rebutted by a preponderance of the evidence.

The presumption does not shift the burden of proof that the treatment was for conditions proximately caused by the fault of another.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.