

# Medical Bills in Car Crash Cases

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## Overview

- The 101 on 18.001
- Does 18.001 apply in federal court?
- *In re Allstate* (Tex. 2021) and 18.001
- Up next: the partially-controverted 18.001 affidavit
- Don't forget causation
- *In re K&L Auto* discovery

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## 18.001 & Paid vs. Incurred Background

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### Recovery of medical expenses in car crash cases is limited to:

- Amounts actually paid or incurred,
- that are reasonable, and
- necessary

Tex. Civ. Prac. & Rem. Code § 41.0105

*In re Allstate Indemnity Co.*, 622 S.W.3d 870, 876 (Tex. 2021) (orig. proceeding)

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## Before 18.001

- Plaintiff always had to present expert testimony to establish reasonableness and necessity of their medical expenses
  - Live at trial
  - Via deposition

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## After 18.001

- Procedural statute:
  - Provides for the use of affidavits to streamline proof of reasonableness & necessity of medical expenses
  - *Gunn v. McCoy*, 554 S.W.3d 645, 672 (Tex. '18).
- Evidentiary statute:
  - Allows for admissibility of evidence of reasonableness & necessity via affidavit, which would otherwise be hearsay
- Plaintiff may use affidavit to prove reasonableness & necessity without having to call expert medical providers to trial where medical expenses are uncontroverted.
  - *Rumzek v. Lucchesi*, 543 S.W.3d 327, 341 (Tex. App.—El Paso 2017, no pet.).

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