

## Motorcyclists worry insurance reform law leaves them vulnerable

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Wendy and Dave Ramirez of Dexter both lost part of their legs in a 2002 motorcycle crash when an auto driver swerved across a median line and struck them. They still ride, on their Harley-Davidson trike. (Photo: Max Ortiz, The Detroit News)

Lansing — "Well, there goes the weekend," Dave Ramirez thought as he flew over the handlebars of his custom-painted Harley Davidson Road King on M-15 near Bay City on July 5, 2002.

"Little did I know how far it would stretch," he said 17 years after the crash that cost both him and his wife their lower right legs, broke other bones, required months of hospitalization, years of grueling rehabilitation, prosthetic limbs and other treatment.

Ramirez had seen the four-door sedan that summer morning as it swerved into oncoming traffic and struck the motorcycle he and Wendy were riding. They were headed north toward Traverse City, where they planned to meet up with friends and continue the long holiday weekend.

"We never made it that far," he recalled, choking up as he and his wife described traumatic images from the crash. "I remember seeing my leg go flying by me at a different angle than normal.

"I thought, 'That's not a good sign.'"

In critical condition after the crash, both Ramirezes required extended hospital stays and months of in-home nursing care for a total treatment bill they estimate as costing more than \$1 million combined. Their medical bills were all covered under the auto insurance policy of the driver who hit them.

But motorcyclists will not have the same assurances under a [new law designed to drive down auto insurance rates](https://www.detroitnews.com/story/news/politics/2019/05/30/its-official-whitmer-signs-historic-no-fault-auto-insurance-reform/1283793001/) — routinely ranked among the highest in the nation — by allowing motorists to purchase policies with limited personal injury protection benefits.

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Pushed by the Republican-led Legislature and signed by Democratic Gov. Gretchen Whitmer, the new insurance law will eliminate the guarantee of lifetime coverage for motorcyclists involved in car crashes and instead subject them to the medical coverage decisions of auto drivers.

More than 2,100 motorcyclists were injured and another 134 died in crashes in 2018, according to data from the Michigan State Police. More than half of the incidents involved multiple vehicles.

Riding a motorcycle in Michigan could amount to a game of “Russian roulette,” said personal injury attorney Steve Sinas, who fought the reform law and is among the critics warning of overlooked flaws in the law.

“Motorcyclists cannot control their own destiny under this law,” Sinas said. “Their ability to claim no-fault benefits on a lifetime basis is totally dependent on the randomness of whether the vehicle involved in their crash had lifetime no-fault coverage.”

Supporters acknowledge the motorcycle section of the no-fault law is “challenging,” but they argue the main thrust of the new reforms are to drive down costs for auto owners.

“The goal is to drive down the cost for consumers of auto insurance, and we have the most expensive auto rates,” sponsoring state Sen. Aric Nesbitt, R-Lawton, said of the new law. “Any of this other stuff that folks talk about is a way to drive up the costs on auto insurance.”

## 'Devastating'

Both Dave and Wendy, who had been riding behind her husband as a passenger, were thrown off the bike upon impact. They landed apart in the roadway, dazed but conscious, calling out each other's names.

“I lifted my head and saw that my bone was sticking out of my leg,” she says. “I remember being in intense pain.”

The Dexter couple later learned the 92-year-old man driving the sedan that hit them had swerved into oncoming traffic to avoid a left-turning car in his own lane whose blinker he had not seen.

Motorcyclists were effectively carved out of Michigan's original no-fault auto insurance law of 1973. They are not required ([https://www.michigan.gov/documents/cis/ip227\\_172811\\_7.pdf](https://www.michigan.gov/documents/cis/ip227_172811_7.pdf)) to purchase policies with personal injury protection for themselves to cover injuries if they strike a tree or run off the road.

But motorcyclists pay an annual fee to the Michigan Catastrophic Claims Association and are guaranteed medical care, lost wages and other benefits if they are involved in a crash with a car.

The original law established an “order of priority” for who pays, starting with the auto insurer of the owner or driver of the motor vehicle. Lawmakers did not change the priority order when they voted to allow motorists to purchase auto insurance policies with reduced medical coverage, beginning in July 2020.

That means if the 92-year-old motorist who struck the Ramirezes had only purchased \$250,000 of personal injury protection, his auto insurer would have only had to cover the first \$250,000 of their medical bills.

“I guarantee I used that up in the first two weeks,” Wendy Ramirez said.

Experts say motorcyclists may not be guaranteed lifetime medical benefits in car crashes even if they personally choose to purchase unlimited personal injury protection under their own auto insurance policy.

"It's terrible for motorcyclists," said Vince Consiglio, president of the Michigan ABATE motorcycle advocacy group. "It's devastating. You could go out and buy full coverage and still be stuck with \$50,000 in coverage if a guy hits you."

## Cutting costs

Nesbitt said motorcycle no-fault issues have been debated for decades in court and called it a "real challenging part of the law."

But he noted that motorcycles were effectively exempted from no-fault insurance requirements when the old law was written. Some reformers have argued that system was unfair, guaranteeing lifetime coverage for motorcyclists who cause car crashes but were not required to purchase personal injury protection policies.

The state's leading auto insurance industry advocacy group declined comment. Jason Wentworth, R-Clare, chairman of the House Select Committee on Reducing Car Insurance Rates, did not respond to a request for comment.

Motorcyclists are generally required to purchase insurance policies with minimal liability coverage ([https://www.michigan.gov/documents/cis/ip227\\_172811\\_7.pdf](https://www.michigan.gov/documents/cis/ip227_172811_7.pdf)). But those who choose to ride without a helmet are also supposed to carry at least \$20,000 of medical coverage benefits to cover their injuries if they are in a crash where no other insurance is available.

Other motorcyclists can choose to purchase medical riders, but they are expensive, only available in \$5,000 increments and rarely bought, Sinas said. "There are no carriers that I know of that sell lifetime motorcycle (personal injury protection) insurance," he said.

Personal injury attorney Brandon Hewitt, chief operating officer at Michigan Auto Law, recommended that motorcyclists attempt to purchase whatever medical coverage they can when the new law takes effect.

"If you do get in an accident, you don't know what that other person might be carrying," Hewitt said. "This (will be) a more dangerous time for motorcyclists."

Under the priority system, a motorcyclist involved in a car crash can access benefits under their own auto policy only if the car driver does not have insurance. If neither party has auto insurance, motorcyclists will be eligible for \$250,000 in benefits through the Michigan Assigned Claims Plan.

Hewitt called the new law a "big deal" for motorcyclists because their crashes often involve some of the "worst injuries," including catastrophic brain and spinal cord injuries that can often require lifetime medical care.

"There's going to be a lot of these significantly injured motorcyclists who run out of coverage and are stuck with the bills themselves, be forced into bankruptcy or have to turn to Medicaid," Hewitt said, noting Michigan repealed its mandatory helmet law in 2012.

## Until death do us part

In a recent newsletter, personal injury protection attorney Ronald Sangster bemoaned the "absurdity" of how the new auto insurance law will affect motorcyclists like himself, calling it "an oversight that needs to be corrected by the Legislature" before the law takes effect in July 2020.

Consiglio, who leads Michigan's top motorcycle advocacy group, said he hopes lawmakers revisit the reform plan over the next year. But he hasn't had much luck just yet.

"They're still patting themselves on the back right now with what a great job they did," he said sarcastically. "We're trying to get the message across."

Consiglio suggested the priority system could be changed to allow motorcyclists to "opt into" their own auto insurance plan if they had chosen to purchase unlimited lifetime medical benefits but a driver who hit them did not.

For the Ramirezzes, passage of the reform law was disheartening. While they will still be entitled to lifetime care for their past injuries, they still ride and know from experience how quickly medical bills can pile up.

Immediately after their crash, they were both airlifted from Bay City to a University of Michigan hospital in Ann Arbor for surgeries and extensive care.

Dave Ramirez said he spent a month and a half in the hospital and required home care for another three to five months after losing his lower right leg, breaking an ulna bone in his forearm, suffering nerve damage in his shoulder and a double compound fracture in his right femur.

Wendy Ramirez recalled spending more than two months in the hospital and needed three or four months for in-home nursing care after losing her lower leg, breaking two vertebrae in her back and suffering a compound femur fracture. She wore a back brace for three months, got a hip replacement and spent several more months in outpatient physical therapy.

Nearly two decades later, the Ramirezes injuries continue to cause them hardships. Their prosthetic limbs, which can cost between \$15,000 and \$25,000, need to be replaced every few years.

"These are ongoing, never-ending, until death-do-us part costs," Dave Ramirez said. "Lawmakers don't understand the ramifications."

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