

# HOUSE BILL 289

D3  
HB 1459/17 – JUD

8lr1088

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By: **Delegate Sydnor**

Introduced and read first time: January 22, 2018

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Noneconomic Damages**

3 FOR the purpose of altering the maximum amount of noneconomic damages that may be  
4 recovered in certain wrongful death actions or survival actions arising on or after a  
5 certain date; providing that a jury may be informed of a certain limitation on  
6 noneconomic damages in certain civil actions; making a clarifying change; and  
7 generally relating to noneconomic damages in certain civil actions.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 3–2A–09(a) and 11–108  
11 Annotated Code of Maryland  
12 (2013 Replacement Volume and 2017 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article – Courts and Judicial Proceedings  
15 Section 3–2A–09(b)  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2017 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
19 That the Laws of Maryland read as follows:

20 **Article – Courts and Judicial Proceedings**

21 3–2A–09.

22 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
23 SUBSECTION, THIS section applies to an award under § 3–2A–05 of this subtitle or a  
24 verdict under § 3–2A–06 of this subtitle for a cause of action arising on or after January 1,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2005.

2 **(2) THIS SECTION DOES NOT APPLY TO AN AWARD UNDER § 3-2A-05**  
3 **OF THIS SUBTITLE OR A VERDICT UNDER § 3-2A-06 OF THIS SUBTITLE FOR A**  
4 **WRONGFUL DEATH ACTION OR SURVIVAL ACTION ARISING ON OR AFTER OCTOBER**  
5 **1, 2018.**

6 (b) (1) (i) Except as provided in paragraph (2)(ii) of this subsection, an  
7 award or verdict under this subtitle for noneconomic damages for a cause of action arising  
8 between January 1, 2005, and December 31, 2008, inclusive, may not exceed \$650,000.

9 (ii) The limitation on noneconomic damages provided under  
10 subparagraph (i) of this paragraph shall increase by \$15,000 on January 1 of each year  
11 beginning January 1, 2009. The increased amount shall apply to causes of action arising  
12 between January 1 and December 31 of that year, inclusive.

13 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the  
14 limitation under paragraph (1) of this subsection shall apply in the aggregate to all claims  
15 for personal injury and wrongful death arising from the same medical injury, regardless of  
16 the number of claims, claimants, plaintiffs, beneficiaries, or defendants.

17 (ii) If there is a wrongful death action in which there are two or more  
18 claimants or beneficiaries, whether or not there is a personal injury action arising from the  
19 same medical injury, the total amount awarded for noneconomic damages for all actions  
20 may not exceed 125% of the limitation established under paragraph (1) of this subsection,  
21 regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants.

22 11-108.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) (i) "Noneconomic damages" means:

25 1. In an action for personal injury, pain, suffering,  
26 inconvenience, physical impairment, disfigurement, loss of consortium, or other  
27 nonpecuniary injury; and

28 2. In an action for wrongful death, mental anguish,  
29 emotional pain and suffering, loss of society, companionship, comfort, protection, care,  
30 marital care, parental care, filial care, attention, advice, counsel, training, guidance, or  
31 education, or other noneconomic damages authorized under Title 3, Subtitle 9 of this  
32 article.

33 (ii) "Noneconomic damages" does not include punitive damages.

34 (3) "Primary claimant" means a claimant in an action for the death of a  
35 person described under § 3-904(d) of this article.

1           (4)    “Secondary claimant” means a claimant in an action for the death of a  
2 person described under § 3–904(e) of this article.

3           (b)    (1)    In any action for damages for personal injury in which the cause of  
4 action arises on or after July 1, 1986, an award for noneconomic damages may not exceed  
5 \$350,000.

6                   (2)    (i)    Except as provided in paragraph (3)(ii) of this subsection, in any  
7 action for damages for personal injury or wrongful death in which the cause of action arises  
8 on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000.

9                           (ii)   The limitation on noneconomic damages provided under  
10 subparagraph (i) of this paragraph shall increase by \$15,000 on October 1 of each year  
11 beginning on October 1, 1995. The increased amount shall apply to causes of action arising  
12 between October 1 of that year and September 30 of the following year, inclusive.

13           (3)    (i)    The limitation established under paragraph (2) of this subsection  
14 shall apply in a personal injury action to each direct victim of tortious conduct and all  
15 persons who claim injury by or through that victim.

16                           (ii)   In a wrongful death action in which there are two or more  
17 claimants or beneficiaries, an award for noneconomic damages may not exceed [150%]  
18 **450%** of the limitation established under paragraph (2) of this subsection, regardless of the  
19 number of claimants or beneficiaries who share in the award.

20           (c)    An award by the health claims arbitration panel in accordance with §  
21 3–2A–05 of this article for damages in which the cause of action arose before January 1,  
22 2005, shall be considered an award for purposes of this section.

23           (d)    (1)    In a jury trial, the jury may [not] be informed of the limitation  
24 established under subsection (b) of this section.

25                           (2)    (i)    If the jury awards an amount for noneconomic damages that  
26 exceeds the limitation established under subsection (b) of this section, the court shall  
27 reduce the amount to conform to the limitation.

28                                   (ii)   In a wrongful death action in which there are two or more  
29 claimants or beneficiaries, if the jury awards an amount for noneconomic damages that  
30 exceeds the limitation established under subsection (b)(3)(ii) of this section, the court shall:

31   1.    If the amount of noneconomic damages for the primary  
32 claimants equals or exceeds the limitation under subsection (b)(3)(ii) of this section:

33   A.    Reduce each individual award of a primary claimant  
34 proportionately to the total award of all of the primary claimants so that the total award to  
35 all claimants or beneficiaries conforms to the limitation; and

1                                   B.     Reduce each award, if any, to a secondary claimant to zero  
2 dollars; or

3                                   2.     If the amount of noneconomic damages for the primary  
4 claimants does not exceed the limitation under subsection (b)(3)(ii) of this section or if there  
5 is no award to a primary claimant:

6                                   A.     Enter an award to the primary claimant, if any, as  
7 directed by the verdict; and

8                                   B.     Reduce each individual award of a secondary claimant  
9 proportionately to the total award of all of the secondary claimants so that the total award  
10 to all claimants or beneficiaries conforms to the limitation.

11           (e)   **(1)** [The provisions of this section do] **EXCEPT AS PROVIDED IN**  
12 **PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES** not apply to [a] **AN AWARD**  
13 **UNDER § 3-2A-05 OF THIS ARTICLE OR A** verdict under [Title 3, Subtitle 2A] **§**  
14 **3-2A-06** of this article for damages in which the cause of action arises on or after January  
15 1, 2005.

16                                   **(2) THIS SECTION APPLIES TO AN AWARD UNDER § 3-2A-05 OF THIS**  
17 **ARTICLE OR A VERDICT UNDER § 3-2A-06 OF THIS ARTICLE FOR A WRONGFUL**  
18 **DEATH ACTION OR SURVIVAL ACTION ARISING ON OR AFTER OCTOBER 1, 2018.**

19           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2018.