



2024 POSITION PAPER

HB83 / SB538

CIVIL ACTIONS - NONECONOMIC DAMAGES PERSONAL INJURY AND WRONGFUL DEATH FAVORABLE

Under the current law, a cap on “noneconomic damages” (including every kind of loss other than wages/earnings or medical expenses) arbitrarily restricts the rights of Marylanders to access full and fair compensation when unreasonably unsafe conduct causes injury or death.

When enacted in 1984, Maryland’s general cap (in § 11-108 of the Courts Article)¹ was the first such cap in the country. Four decades later, only nine other states have such a cap:



No neighboring State, and no State on the Eastern seaboard, restricts the rights of its own citizens to fair compensation the same way Maryland does with § 11-108.

Over four decades, § 11-108 has failed to make insurance any cheaper in Maryland, nor wages any higher, nor life any better for millions of Marylanders.

The Maryland Association for Justice supports HB 83/SB538, and repeal of § 11-108.

Because of 11-108, Maryland’s civil justice system disproportionately favors high-wage earners, and disfavors people on the “wrong side” of the wealth gap. Moreover, decades of legal scholarship have shown the discriminatory impact of general cap statutes like § 11-108.²

The time has come to repeal § 11-108, and allow Marylanders to access civil justice and fair compensation without arbitrary legislative restrictions on recoverable damages.

The Maryland Association for Justice urges a FAVORABLE Report on HB 83 / SB 538.

¹ HB 83 repeals the “general” noneconomic damages cap in Md. Courts & Jud. Procs. Code § 11-108. **HB 83 has no effect** on caps applicable to health care providers, local or State government, boards of education, or the cap enacted last year pertaining to claims of sexual assault against a child.

² See, e.g., Finley, “The Hidden Victims of Tort Reform: Women, Children, and the Elderly,” 53 Emory L.J. 1263, 1265 (2004) (“caps on noneconomic damages . . . have a significant adverse impact on women and the elderly”).

About Maryland Association for Justice

The Maryland Association for Justice (MAJ) represents over 1,250 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system, the protection of the rights of consumers and the education and professional development of its members.

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