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Preserve Maryland's Noneconomic Damages Cap Levels

### **Why It Matters**

A noneconomic damage cap was first enacted in Maryland in 1986 at \$350,000. This cap has been adjusted over the years by the annual escalator. Maryland chose to cap noneconomic damages because pain and suffering are difficult to quantify, and putting a reasonable cap on damages is the best public policy to balance the need for recovery for these injuries with the avoidance of excessive awards.

### **The Facts**

- Noneconomic damages are damages that may be awarded for pain and suffering in negligence actions. Under current law, these damages are capped at \$935,000, and they escalate each year by \$15,000.
- A majority of states have caps on noneconomic damages, and Maryland's cap is one of the highest in the nation.
- Not only does Maryland have an adequate cap on noneconomic damages, but plaintiffs in Maryland can also recover two other types of damages in negligence actions: (1) economic damages (for all economic losses such as lost wages, past and future health care costs, and other quantifiable expenses) and (2) punitive damages (in cases of extreme negligence). Both of these other types of damages, not addressed in **SB 538**, are unlimited under Maryland law.

### **Consequences of SB 538, as amended, include:**

- **SB 538**, as amended, would create a whopping increase to Maryland's noneconomic damages cap to \$1,750,000, nearly a 90% overnight increase above the current cap. The amended bill imposes another overnight increase of 33% to the annual escalator, from \$15,000 to \$20,000.
- Higher insurance costs for consumers and businesses, as determined by the Maryland Insurance Administration and the National Association of Insurance Commissioners (which found that premium rates were lower in states that regulated the amount of non-economic damages).
- A significant increase in claims and lawsuit filings, driving up the costs of defense, settlement and claims administration that will ultimately be passed on to consumers.
- Impediments to reaching reasonable settlements since plaintiffs' lawyers will demand significantly higher amounts for immeasurable harm as they hold out for the chance of a jackpot verdict.
- Undermining of Maryland's current climate of predictable and stable business and healthcare insurance, which keeps costs down for all consumers and businesses who need insurance.

***An overnight increase to the cap of nearly 90% to \$1,750,000 as well as the overnight 33% increase to the annual escalator are excessive, unfounded, and should be rejected. Say NO TO SB 538!***