

SENATE BILL 538

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4r1782
CF HB 83

By: **Senators Waldstreicher, Charles, Kelly, Muse, Rosapepe, and Smith**

Introduced and read first time: January 24, 2024

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Noneconomic Damages – Personal Injury and Wrongful Death**

3 FOR the purpose of ~~repealing~~ altering certain limitations on noneconomic damages in civil
4 actions for personal injury or wrongful death; and generally relating to noneconomic
5 damages.

6 BY repealing and reenacting, with amendments,

7 Article – Courts and Judicial Proceedings

8 Section 11–108

9 Annotated Code of Maryland

10 (2020 Replacement Volume and 2023 Supplement)

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

13 **Article – Courts and Judicial Proceedings**

14 ~~§~~11–108.

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

16 (2) (i) “Noneconomic damages” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

9 (ii) “Noneconomic damages” does not include punitive damages.

10 (3) “Primary claimant” means a claimant in an action for the death of a
11 person described under § 3–904(d) of this article.

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

14 (b) (1) In any action for damages for personal injury in which the cause of
15 action arises on or after July 1, 1986, an award for noneconomic damages may not exceed
16 \$350,000.

17 (2) (i) Except as provided in paragraph ~~(3)(ii)~~ **(4)(II)** of this subsection,
18 in any action for damages for personal injury or wrongful death in which the cause of action
19 arises on or after October 1, 1994, **BUT BEFORE OCTOBER 1, 2024,** an award for
20 noneconomic damages may not exceed \$500,000.

21 (ii) **1.** The limitation on noneconomic damages provided under
22 subparagraph (i) of this paragraph shall increase by \$15,000 on October 1 of each year
23 beginning on October 1, 1995.

24 **2.** The increased amount **UNDER THIS SUBPARAGRAPH**
25 shall apply to causes of action arising between October 1 of that year and September 30 of
26 the following year, inclusive.

27 **(3) (i) EXCEPT AS PROVIDED IN PARAGRAPH (4)(II) OF THIS**
28 **SUBSECTION, IN ANY ACTION FOR DAMAGES FOR PERSONAL INJURY OR WRONGFUL**
29 **DEATH IN WHICH THE CAUSE OF ACTION ARISES ON OR AFTER OCTOBER 1, 2024, AN**
30 **AWARD FOR NONECONOMIC DAMAGES MAY NOT EXCEED \$1,750,000.**

31 **(ii) 1. THE LIMITATION ON NONECONOMIC DAMAGES**
32 **PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCREASE BY**
33 **\$20,000 ON OCTOBER 1 EACH YEAR BEGINNING ON OCTOBER 1, 2025.**

2. THE INCREASED AMOUNT UNDER THIS SUBPARAGRAPH SHALL APPLY TO CAUSES OF ACTION ARISING BETWEEN OCTOBER 1 OF THAT YEAR AND SEPTEMBER 30 OF THE FOLLOWING YEAR, INCLUSIVE.

~~(3) (4)~~ (i) The ~~limitation~~ **LIMITATIONS** established under ~~paragraph (2)~~ **PARAGRAPHS (2) AND (3)** of this subsection shall apply in a personal injury action to each direct victim of tortious conduct and all persons who claim injury by or through that victim.

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the ~~limitation~~ **LIMITATIONS** established under ~~paragraph (2)~~ **PARAGRAPHS (2) AND (3)** of this subsection, regardless of the number of claimants or beneficiaries who share in the award.

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

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

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

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, if the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection ~~(b)(3)(ii)~~ **(B)(4)(II)** of this section, the court shall:

1. If the amount of noneconomic damages for the primary claimants equals or exceeds the limitation under subsection ~~(b)(3)(ii)~~ **(B)(4)(II)** of this section:

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

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

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

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

3 B. Reduce each individual award of a secondary claimant
4 proportionately to the total award of all of the secondary claimants so that the total award
5 to all claimants or beneficiaries conforms to the limitation.

6 (e) The provisions of this section do not apply to a verdict under Title 3, Subtitle
7 2A of this article for damages in which the cause of action arises on or after January 1,
8 2005.‡

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
10 apply only prospectively and may not be applied or interpreted to have any effect on or
11 application to any cause of action arising before the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.