
By: **Delegates Gladden, Grosfeld, and Montague**
Introduced and read first time: January 27, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Limitation on Noneconomic Damages - Repeal**

3 FOR the purpose of repealing provisions of law regarding the limitation on
4 noneconomic damages in personal injury actions; and generally relating to the
5 limitation on noneconomic damages in personal injury actions.

6 BY repealing and reenacting, with amendments,
7 Article - Courts and Judicial Proceedings
8 Section 3-904(c)
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 1999 Supplement)

11 BY repealing
12 Article - Courts and Judicial Proceedings
13 Section 11-108
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 1999 Supplement)

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

18 **Article - Courts and Judicial Proceedings**

19 3-904.

20 (c) (1) In an action under this subtitle, damages may be awarded to the
21 beneficiaries proportioned to the injury resulting from the wrongful death.

22 (2) [Subject to § 11-108(d)(2) of this article, the] THE amount recovered
23 shall be divided among the beneficiaries in shares directed by the verdict.

24 [11-108.

25 (a) In this section:

1 (1) "Noneconomic damages" means:

2 (i) In an action for personal injury, pain, suffering, inconvenience,
3 physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury;
4 and

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

9 (2) "Noneconomic damages" does not include punitive damages.

10 (3) "Primary claimant" means a person described under § 3-904(d) of
11 this article.

12 (4) "Secondary claimant" means a person described under § 3-904(e) of
13 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
16 exceed \$350,000.

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

21 (ii) 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. The increased amount shall apply to causes of action
24 arising between October 1 of that year and September 30 of the following year,
25 inclusive.

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

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

33 (c) An award by the health claims arbitration panel in accordance with §
34 3-2A-06 of this article shall be considered an award for purposes of this section.

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

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

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

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

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

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

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

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

20 B. Reduce each individual award of a secondary claimant
21 proportionately to the total award of all of the secondary claimants so that the total
22 award to all claimants or beneficiaries conforms to the limitation.]

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2000.