

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 703  
Judiciary

(Delegate Vallario)

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**Jury Verdict - Damages - Revisory Power of Court**

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This bill authorizes a court to order a new trial on the issue of monetary damages, if the court determines that a jury verdict is excessive or inadequate, and the parties do not agree to a decrease or increase of the amount of damages awarded by the jury to a reasonable amount determined by the court.

The bill applies prospectively only and may not be applied to verdicts occurring before the bill's October 1, 2003 effective date.

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**Fiscal Summary**

**State Effect:** The bill is not expected to have a significant impact on government finances or operations.

**Local Effect:** Minimal – see above.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Current Law:** A party may file a motion for new trial within ten days after entry of judgment. The granting or denial of a motion for new trial is within the sound discretion of the trial court.

The court may revise a judgment for 30 days after it has been entered, or pursuant to a motion filed within that period. After that time, the court may revise a judgment only in

case of fraud, mistake, irregularity, or failure of a court employee to perform a required duty.

Case law indicates that a court may order a new trial on the issue of both excessive and inadequate damage awards by juries. See *Kirkpatrick v. Zimmerman*, 257 Md. 215, 218 (1970); *Buck v. Cam's Broadloom Rugs*, 328 Md. 51 (1992).

Juries may award economic damages, and noneconomic damages in personal injury and wrongful death lawsuits. Punitive damages are authorized under certain circumstances.

Economic damages include loss of earnings and medical expenses. They do not include punitive damages.

In an action for personal injury, noneconomic damages include pain, suffering, inconvenience, physical impairment, disfigurement, and loss of consortium. In an action for wrongful death, noneconomic damages include mental anguish; emotional pain and suffering; loss of companionship; and marital, parental, and filial care.

Noneconomic damages for personal injury and wrongful death lawsuits are capped at \$500,000, for actions arising on or after October 1, 1994. The cap increases by \$15,000 on October 1 of each ensuing year. The cap for October 1, 2002 through September 30, 2003 is \$620,000. The limit applies to each direct victim of tortious conduct, and all persons who claim injury by or through that victim. If there are two or more claimants as beneficiaries in a wrongful death action, the award may not exceed 150% of the statutory cap. The cap does not apply to intentional torts.

The jury is not advised of this limitation. If the jury awards an amount of noneconomic damages that exceeds the limit, the court reduces the amount to conform to the limit.

Mississippi has a statute comparable to this bill, while Arizona by statute authorizes its supreme court to order a new trial on the issue of inadequate damages. Some other states address this in their court rules or have case law that reaches this result.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 615 (Senator Green) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2003  
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Analysis by: Rita A. Reimer

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510