
By: **Delegate Zirkin**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice Claims - Past Medical Expenses**

3 FOR the purpose of excluding certain amounts from certain verdicts or awards for
4 past medical expenses in certain actions; and generally relating to calculating
5 past medical expenses in certain actions.

6 BY repealing and reenacting, with amendments,
7 Article - Courts and Judicial Proceedings
8 Section 11-109
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2004 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 11-109.

15 (a) (1) In this section, "economic damages" means loss of earnings and
16 medical expenses.

17 (2) "Economic damages" does not include punitive damages.

18 (b) As part of the verdict in any action for damages for personal injury in
19 which the cause of action arises on or after July 1, 1986 or for wrongful death in
20 which the cause of action arises on or after October 1, 1994, the trier of fact shall
21 itemize the award to reflect the monetary amount intended for:

22 (1) Past medical expenses;

23 (2) Future medical expenses;

24 (3) Past loss of earnings;

25 (4) Future loss of earnings;

1 (5) Noneconomic damages; and

2 (6) Other damages.

3 (C) IN AN ACTION FOR DAMAGES FOR PERSONAL INJURY OR WRONGFUL
4 DEATH FILED UNDER TITLE 3, SUBTITLE 2A OF THIS ARTICLE IN WHICH THE CAUSE
5 OF ACTION ARISES ON OR AFTER OCTOBER 1, 2005, AN AWARD OR VERDICT FOR PAST
6 MEDICAL EXPENSES SHALL EXCLUDE ANY AMOUNT NOT ACTUALLY PAID BY OR ON
7 BEHALF OF THE CLAIMANT OR ANY AMOUNT NOT OWED BY THE CLAIMANT TO A
8 HEALTH CARE PROVIDER.

9 [(c)] (D) (1) The court or the health claims arbitration panel may order that
10 all or part of the future economic damages portion of the award be paid in the form of
11 annuities or other appropriate financial instruments, or that it be paid in periodic or
12 other payments consistent with the needs of the plaintiff, funded in full by the
13 defendant or the defendant's insurer and equal when paid to the amount of the future
14 economic damages award.

15 (2) In the event that the court or panel shall order that the award for
16 future economic damages be paid in a form other than a lump sum, the court or panel
17 shall order that the defendant or the defendant's insurer provide adequate security
18 for the payment of all future economic damages.

19 (3) The court or panel may appoint a conservator under this subsection
20 for the plaintiff, upon such terms as the court or panel may impose, who shall have
21 the full and final authority to resolve any dispute between the plaintiff and the
22 defendant or the defendant's insurer regarding the need or cost of expenses for the
23 plaintiff's medical, surgical, custodial, or other care or treatment.

24 [(d)] (E) If the plaintiff under this section dies before the final periodic
25 payment of an award is made, the unpaid balance of the award for future loss of
26 earnings shall revert to the estate of the plaintiff and the unpaid balance of the award
27 for future medical expenses shall revert to the defendant or to the defendant's insurer
28 if the insurer provided the funds for the future damages award.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2005.