

# HOUSE BILL 969

D3

8lr2544  
CF SB 550

---

By: **Delegates Waldstreicher and Valderrama**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice - Death - Noneconomic Damages**

3 FOR the purpose of altering certain limitations on noneconomic damages for a  
4 survival action and a wrongful death action concerning health care malpractice  
5 for a cause of action arising on or after a certain date; providing for a delayed  
6 effective date; and generally relating to noneconomic damages in survival and  
7 wrongful death actions concerning health care malpractice.

8 BY repealing and reenacting, with amendments,  
9 Article - Courts and Judicial Proceedings  
10 Section 3-2A-09(b)  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2007 Supplement)

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

15 **Article - Courts and Judicial Proceedings**

16 3-2A-09.

17 (b) (1) (i) Except as provided in paragraph [(2)(ii)]**(2)(III)** of this  
18 subsection, an award or verdict under this subtitle for noneconomic damages for a  
19 cause of action arising between January 1, 2005, and December 31, 2008, inclusive,  
20 may not exceed \$650,000.

21 (ii) The limitation on noneconomic damages provided under  
22 subparagraph (i) of this paragraph shall increase by \$15,000 on January 1 of each year  
23 beginning January 1, 2009. The increased amount shall apply to causes of action  
24 arising between January 1 and December 31 of that year, inclusive.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2)    (I)    **THIS PARAGRAPH APPLIES ONLY TO AN AWARD UNDER**  
2 **§ 3-2A-05 OF THIS SUBTITLE OR A VERDICT UNDER § 3-2A-06 OF THIS**  
3 **SUBTITLE FOR A CAUSE OF ACTION ARISING BETWEEN JANUARY 1, 2005, AND**  
4 **DECEMBER 31, 2008, INCLUSIVE.**

5                   [(i)] (II)    Except as provided in subparagraph [(ii)](III) of this  
6 paragraph, the limitation under paragraph (1) of this subsection shall apply in the  
7 aggregate to all claims for personal injury and wrongful death arising from the same  
8 medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries,  
9 or defendants.

10                   [(ii)] (III)    If there is a wrongful death action in which there are  
11 two or more claimants or beneficiaries, whether or not there is a personal injury action  
12 arising from the same medical injury, the total amount awarded for noneconomic  
13 damages for all actions may not exceed 125% of the limitation established under  
14 paragraph (1) of this subsection, regardless of the number of claims, claimants,  
15 plaintiffs, beneficiaries, or defendants.

16           (3)    (I)    **THIS PARAGRAPH APPLIES TO AN AWARD UNDER §**  
17 **3-2A-05 OF THIS SUBTITLE OR A VERDICT UNDER § 3-2A-06 OF THIS SUBTITLE**  
18 **FOR A CAUSE OF ACTION ARISING ON OR AFTER JANUARY 1, 2009.**

19                   (II)    **THE LIMITATION ESTABLISHED UNDER PARAGRAPH (1)**  
20 **OF THIS SUBSECTION SHALL APPLY IN A CAUSE OF ACTION TO EACH DIRECT**  
21 **VICTIM OF TORTIOUS CONDUCT AND ALL PERSONS WHO CLAIM INJURY BY OR**  
22 **THROUGH THAT VICTIM.**

23                   (III)    **IN A WRONGFUL DEATH ACTION IN WHICH THERE ARE**  
24 **TWO OR MORE CLAIMANTS OR BENEFICIARIES, AN AWARD FOR NONECONOMIC**  
25 **DAMAGES MAY NOT EXCEED 150% OF THE LIMITATION ESTABLISHED UNDER**  
26 **PARAGRAPH (1) OF THIS SUBSECTION, REGARDLESS OF THE NUMBER OF**  
27 **CLAIMANTS OR BENEFICIARIES WHO SHARE IN THE AWARD.**

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 January 1, 2009.