

# SENATE BILL 505

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CF HB 237

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By: **Senator Gladden**

Introduced and read first time: February 4, 2009

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice – Noneconomic Damages**

3 FOR the purpose of altering certain limitations on noneconomic damages for a  
4 personal injury action and a wrongful death action concerning health care  
5 malpractice for a cause of action arising on or after a certain date; and generally  
6 relating to noneconomic damages in personal injury and wrongful death actions  
7 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 2008 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) EXCEPT AS PROVIDED IN PARAGRAPH (2)(III) OF THIS**  
22 **SUBSECTION, AN AWARD OR VERDICT UNDER THIS SUBTITLE FOR**  
23 **NONECONOMIC DAMAGES FOR A CAUSE OF ACTION ARISING BETWEEN JANUARY**  
24 **1, 2009, AND SEPTEMBER 30, 2009, INCLUSIVE, MAY NOT EXCEED \$665,000.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   **(III) EXCEPT AS PROVIDED IN PARAGRAPH (3)(III) OF THIS**  
2 **SUBSECTION, AN AWARD OR VERDICT UNDER THIS SUBTITLE FOR**  
3 **NONECONOMIC DAMAGES FOR PERSONAL INJURY OR WRONGFUL DEATH FOR A**  
4 **CAUSE OF ACTION ARISING ON OR AFTER OCTOBER 1, 2009, MAY NOT EXCEED**  
5 **\$710,000.**

6                   **[(ii)] (IV)** The limitation on noneconomic damages provided  
7 under subparagraph **[(i)] (III)** of this paragraph shall increase by \$15,000 on  
8 **[January] OCTOBER 1** of each year beginning **[January 1, 2009] OCTOBER 1, 2010.**  
9 The increased amount shall apply to causes of action arising between **[January 1 and**  
10 **December 31] OCTOBER 1** of that year **AND SEPTEMBER 30 OF THE FOLLOWING**  
11 **YEAR, inclusive.**

12                   **(2) (I) THIS PARAGRAPH APPLIES ONLY TO AN AWARD OR A**  
13 **VERDICT UNDER THIS SUBTITLE FOR A CAUSE OF ACTION ARISING BETWEEN**  
14 **JANUARY 1, 2005, AND SEPTEMBER 30, 2009, INCLUSIVE.**

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

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

26                   **(3) (I) THIS PARAGRAPH APPLIES TO AN AWARD OR A VERDICT**  
27 **UNDER THIS SUBTITLE FOR A CAUSE OF ACTION ARISING ON OR AFTER**  
28 **OCTOBER 1, 2009.**

29                   **(II) THE LIMITATION ESTABLISHED UNDER PARAGRAPH**  
30 **(1)(III) OF THIS SUBSECTION SHALL APPLY IN A PERSONAL INJURY ACTION TO**  
31 **EACH DIRECT VICTIM OF TORTIOUS CONDUCT AND ALL PERSONS WHO CLAIM**  
32 **INJURY BY OR THROUGH THAT VICTIM.**

33                   **(III) IN A WRONGFUL DEATH ACTION IN WHICH THERE ARE**  
34 **TWO OR MORE CLAIMANTS OR BENEFICIARIES, AN AWARD OR A VERDICT FOR**  
35 **NONECONOMIC DAMAGES MAY NOT EXCEED 150% OF THE LIMITATION**  
36 **ESTABLISHED UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION, REGARDLESS**  
37 **OF THE NUMBER OF CLAIMANTS OR BENEFICIARIES WHO SHARE IN THE AWARD**  
38 **OR VERDICT.**

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