

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 682

(Senator Ramirez)

Judicial Proceedings

Civil Actions - Noneconomic Damages

This bill increases the maximum amount of noneconomic damages that may be recovered in any wrongful death or survival action, including a health care malpractice action.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Potential meaningful impact on small businesses subject to higher liability under the bill and small business law firms that successfully litigate claims under the increased liability limits.

Analysis

Bill Summary: The bill raises the cap on noneconomic damages in a wrongful death or survival action, including a health care malpractice action, in which there are two or more claimants or beneficiaries to 450% of the statutory limitation on damages, regardless of the number of claimants or beneficiaries who share in the award. As a result, the cap on damages in these actions is \$3,802,500 (450% of \$845,000).

The bill also establishes that the existing limit on noneconomic damages in health care malpractice actions does not apply to an award from an arbitration panel, or a verdict by a judge or jury, for a wrongful death or survival action arising on or after October 1, 2017. Instead, the general limit on noneconomic damages applicable to other civil actions applies (\$845,000 instead of \$785,000).

The bill also specifies that, in a jury trial, the jury may be informed of the limit on noneconomic damages in any civil action.

Current Law: The Courts and Judicial Proceedings Article sets various caps on noneconomic damages in civil actions depending on the type of action and when the cause of action arose. In a civil action for damages for personal injury or death, excluding a health care malpractice action, the cap is \$845,000 for a cause of action arising beginning October 1, 2017, through September 30, 2018. In a health care malpractice action, the cap is \$785,000 for a cause of action arising beginning January 1, 2017, through December 31, 2017.

These limitations apply in a personal injury action to each direct victim of tortious conduct and all persons who claim injury through that victim. In a wrongful death action in which there are two or more claimants or beneficiaries, an award of noneconomic damages may not exceed 150% of the applicable cap (except in a health care malpractice action), regardless of the number of claimants or beneficiaries; thus, the cap on damages in these actions is \$1,267,500 (150% of \$845,000).

For health care malpractice actions, the cap was set at \$650,000 for causes of action arising between January 1, 2005, and December 31, 2008, increasing by \$15,000 each year beginning on January 1, 2009. For causes of action arising in 2017, the cap is \$785,000. The cap applies in the aggregate to all claims for personal injury and wrongful death arising from the same medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants. However, if there is a wrongful death action in which there are two or more claimants or beneficiaries, the total amount awarded may not exceed 125% of the cap, or \$981,250 in 2017.

Additional Information

Prior Introductions: None.

Cross File: HB 1459 (Delegate Anderson, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - February 22, 2017
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