

SENATE BILL 36

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SB 682/17 – JPR

(PRE-FILED)

8lr0999

By: **Senator Smith**

Requested: October 27, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Noneconomic Damages**

3 FOR the purpose of increasing the maximum amount of noneconomic damages that may be
4 recovered in certain wrongful death actions or survival actions arising on or after a
5 certain date; providing that a jury may be informed of a certain limitation on
6 noneconomic damages in certain civil actions; making a clarifying change; and
7 generally relating to noneconomic damages in certain civil actions.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 3–2A–09(a) and 11–108
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2017 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Courts and Judicial Proceedings
15 Section 3–2A–09(b)
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2017 Supplement)

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

20 **Article – Courts and Judicial Proceedings**

21 3–2A–09.

22 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
23 SUBSECTION, THIS section applies to an award under § 3–2A–05 of this subtitle or a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 verdict under § 3–2A–06 of this subtitle for a cause of action arising on or after January 1,
2 2005.

3 **(2) THIS SECTION DOES NOT APPLY TO AN AWARD UNDER § 3–2A–05**
4 **OF THIS SUBTITLE OR A VERDICT UNDER § 3–2A–06 OF THIS SUBTITLE FOR A**
5 **WRONGFUL DEATH ACTION OR SURVIVAL ACTION ARISING ON OR AFTER OCTOBER**
6 **1, 2018.**

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

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

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

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

23 11–108.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) (i) “Noneconomic damages” means:

26 1. In an action for personal injury, pain, suffering,
27 inconvenience, physical impairment, disfigurement, loss of consortium, or other
28 nonpecuniary injury; and

29 2. In an action for wrongful death, mental anguish,
30 emotional pain and suffering, loss of society, companionship, comfort, protection, care,
31 marital care, parental care, filial care, attention, advice, counsel, training, guidance, or
32 education, or other noneconomic damages authorized under Title 3, Subtitle 9 of this
33 article.

34 (ii) “Noneconomic damages” does not include punitive damages.

35 (3) “Primary claimant” means a claimant in an action for the death of a

1 person described under § 3–904(d) of this article.

2 (4) “Secondary claimant” means a claimant in an action for the death of a
3 person described under § 3–904(e) of this article.

4 (b) (1) In any action for damages for personal injury in which the cause of
5 action arises on or after July 1, 1986, an award for noneconomic damages may not exceed
6 \$350,000.

7 (2) (i) Except as provided in paragraph (3)(ii) of this subsection, in any
8 action for damages for personal injury or wrongful death in which the cause of action arises
9 on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000.

10 (ii) The limitation on noneconomic damages provided under
11 subparagraph (i) of this paragraph shall increase by \$15,000 on October 1 of each year
12 beginning on October 1, 1995. The increased amount shall apply to causes of action arising
13 between October 1 of that year and September 30 of the following year, inclusive.

14 (3) (i) The limitation established under paragraph (2) of this subsection
15 shall apply in a personal injury action to each direct victim of tortious conduct and all
16 persons who claim injury by or through that victim.

17 (ii) In a wrongful death action in which there are two or more
18 claimants or beneficiaries, an award for noneconomic damages may not exceed [150%]
19 **450%** of the limitation established under paragraph (2) of this subsection, regardless of the
20 number of claimants or beneficiaries who share in the award.

21 (c) An award by the health claims arbitration panel in accordance with §
22 3–2A–05 of this article for damages in which the cause of action arose before January 1,
23 2005, shall be considered an award for purposes of this section.

24 (d) (1) In a jury trial, the jury may [not] be informed of the limitation
25 established under subsection (b) of this section.

26 (2) (i) If the jury awards an amount for noneconomic damages that
27 exceeds the limitation established under subsection (b) of this section, the court shall
28 reduce the amount to conform to the limitation.

29 (ii) In a wrongful death action in which there are two or more
30 claimants or beneficiaries, if the jury awards an amount for noneconomic damages that
31 exceeds the limitation established under subsection (b)(3)(ii) of this section, the court shall:

32 1. If the amount of noneconomic damages for the primary
33 claimants equals or exceeds the limitation under subsection (b)(3)(ii) of this section:

34 A. Reduce each individual award of a primary claimant
35 proportionately to the total award of all of the primary claimants so that the total award to

1 all claimants or beneficiaries conforms to the limitation; and

2 B. Reduce each award, if any, to a secondary claimant to zero
3 dollars; or

4 2. If the amount of noneconomic damages for the primary
5 claimants does not exceed the limitation under subsection (b)(3)(ii) of this section or if there
6 is no award to a primary claimant:

7 A. Enter an award to the primary claimant, if any, as
8 directed by the verdict; and

9 B. Reduce each individual award of a secondary claimant
10 proportionately to the total award of all of the secondary claimants so that the total award
11 to all claimants or beneficiaries conforms to the limitation.

12 (e) **(1)** [The provisions of this section do] **EXCEPT AS PROVIDED IN**
13 **PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES** not apply to [a] **AN AWARD**
14 **UNDER § 3-2A-05 OF THIS ARTICLE OR A** verdict under [Title 3, Subtitle 2A] **§**
15 **3-2A-06** of this article for damages in which the cause of action arises on or after January
16 1, 2005.

17 **(2) THIS SECTION APPLIES TO AN AWARD UNDER § 3-2A-05 OF THIS**
18 **ARTICLE OR A VERDICT UNDER § 3-2A-06 OF THIS ARTICLE FOR A WRONGFUL**
19 **DEATH ACTION OR SURVIVAL ACTION ARISING ON OR AFTER OCTOBER 1, 2018.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2018.