

**HB 83 – Civil Actions – Noneconomic Damages**  
**Personal Injury and Wrongful Death**  
**The Disparate Impact on Women, Children & the Elderly**

Md. Cts. & Jud. Procs. Code § 11-108 limits the recovery of “noneconomic damages” (*i.e.*, every kind of loss other than wages/earnings or medical expenses) when unreasonably unsafe conduct causes personal injury or wrongful death.<sup>1</sup> However, the cap has a disparate impact on women, children, and the elderly.

Women often suffer injuries that cannot be fully compensated because of the cap. For example, in a Maryland case, a 25-year-old woman was kidnapped from her building’s lobby by a felon who got a set of keys from the landlord, despite assurances to tenants that only carefully screened tenants could access common areas. Beaten and sexually assaulted, the young woman’s traumatic experience did not stop her from working, so she had no significant wage loss. The jury’s verdict was entirely non-economic, and was reduced to less than half by § 11-108.<sup>2</sup> Thus because she was able to return to work, she was subject to a capped recovery which necessarily devalued her injuries.

This is but one example. Decades of legal scholarship has shown that cap statutes like § 11-108 disproportionately limit the recoveries of women injured by negligence, due in part to disparities in wage-earning power, and also because the impact of harms more commonly experienced by women, such as sexual violence and reproductive impairment (such as pregnancy loss or infertility), commonly are compensated as non-economic loss damages: grief and emotional distress, altered sense of self, impaired relationships, *etc.*<sup>3</sup>

Children and the elderly are also unfairly impacted by § 11-108. For example jury verdicts where unreasonably unsafe conduct injures or kills very young or very old Marylanders do not fairly compensate the injured where there are very low lost wages/earning component. Noneconomic damages are unfairly devalued despite jurors’ intent.

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<sup>1</sup> HB 83 would repeal this “general” noneconomic damages cap. HB 83 has no effect on caps applicable to health care providers, local or State government, boards of education, or the cap enacted last year pertaining to claims of sexual assault against a child.

<sup>2</sup> Solder v. Queen-Anne Belvedere Assocs., Ltd., Case No. 24-L-90002826 (Cir. Ct. Baltimore County, Md. Jul 23, 1993).

<sup>3</sup> *See, e.g.*, Finley, “The Hidden Victims of Tort Reform: Women, Children, and the Elderly,” 53 Emory L.J. 1263, 1265 (2004) (“caps on noneconomic damages . . . have a significant adverse impact on women and the elderly”).

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Enacted in 1986 as the first such “cap” statute in the nation, § 11-108 has limited the rights of all Maryland residents to obtain full and fair compensation in our own State Courts for close to four decades. Women, children and the elderly have felt a disproportionate impact from this.

Meanwhile, *none* of Maryland’s neighbors has enacted a similar cap on non-economic damages; indeed, Maryland is the only place on the U.S. Eastern Seaboard where the legislature has limited its own residents’ rights to compensation in all personal injury and wrongful death actions.

The § 11-108 cap on non-economic damages is bad public policy that unfairly impacts women, children and the elderly.

**I request a FAVORABLE report on HB 83.**

Respectfully submitted,



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