

Gwen-Marie Davis §^\*  
Petra Aaron §  
Kaelia Plunkett §■±  
Taylor Nettleford §  
Marta Batiste §\* ♠

District of Columbia Bar Member \*  
Georgia State Bar Member ♠  
Maryland State Bar Member §  
New Jersey State Bar Member ±  
New York State Bar Member ■  
Virginia State Bar Member ^



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**Written Testimony of Gwen-Marie Davis, Esq.  
President, Maryland Association for Justice**

**SB 584 Civil Actions – Noneconomic Damages – Personal  
Injury and Wrongful Death (cross-filed with HB 113)**

**FAVORABLE**

Dear Chairman Smith and Members of the Senate Judicial Proceedings Committee:

After nearly 40 years, the time has come to repeal Section 11-108, Maryland’s cap on non-economic damages in personal injury and wrongful death cases.

I respectfully ask you for a **FAVORABLE** report on **Senate Bill 584**.

When innocent Marylanders suffer catastrophic injuries due to negligence, § 11-108 deprives them of fair compensation as determined by a jury of their peers after a fair and impartial trial. When a Maryland family loses a loved one to negligence, § 11-108 victimizes that family in the same way.

Section 11-108 should be repealed because it is arbitrary, unfair, and discriminatory.

Decades of law review articles have documented § 11-108’s discriminatory effects. In the University of Baltimore Law Review, § 11-108 has been described as “a form of sex-based discrimination.” In that article, Prof. Rebecca Korzec from the University of Baltimore writes:

In this essay, I argue that the statutory cap on noneconomic damages in Maryland [§ 11-108] disproportionately disadvantages women. For this reason, the cap, although facially neutral, is in fact discriminatory in its impact on female litigants.

An award-winning article from 2022 echoes and expands Prof. Korzec’s criticisms. In “**Democratic Renewal and the Civil Jury**,” the authors explain that § 11-108 and similar laws disadvantage litigants on the basis of gender and minority status, and thereby “exacerbate social inequality in the courthouse.”

So, it's not only me telling you that § 11-108 is a discriminatory law. The time for repeal is now.

Of course, the insurance industry, and tort reformers, and folks who want to live in a world where they can avoid accountability for the damaging consequences of their negligence – they all love § 11-108. They will try to scare you with stories, but they have no evidence. In fact, more than 85% of the people and businesses in the United States are in States without a cap like § 11-108. When courts in those States declared caps like § 11-108 unconstitutional, their markets and economies did not crash.

The reasons that justified enacting § 11-108 have vanished from memory. Insurance company profits are globally robust. Marylanders should no longer subsidize the insurance industry at the cost of their access to fair compensation, determined in our courts by fair and impartial citizen juries.

Thank you for your courtesy and indulgence, and for a FAVORABLE report on Senate Bill 584.

Sincerely,

Gwen-Marie Davis, Esq.

GMD