

SENATE BILL 538

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4lr1782
CF HB 83

By: **Senators Waldstreicher, Charles, Kelly, Muse, Rosapepe, and Smith**

Introduced and read first time: January 24, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Noneconomic Damages – Personal Injury and Wrongful Death**

3 FOR the purpose of repealing certain limitations on noneconomic damages in civil actions
4 for personal injury or wrongful death; and generally relating to noneconomic
5 damages.

6 BY repealing

7 Article – Courts and Judicial Proceedings

8 Section 11–108

9 Annotated Code of Maryland

10 (2020 Replacement Volume and 2023 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

12 That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 [11–108.

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

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

17 1. In an action for personal injury, pain, suffering,
18 inconvenience, physical impairment, disfigurement, loss of consortium, or other
19 nonpecuniary injury; and

20 2. In an action for wrongful death, mental anguish,
21 emotional pain and suffering, loss of society, companionship, comfort, protection, care,
22 marital care, parental care, filial care, attention, advice, counsel, training, guidance, or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 education, or other noneconomic damages authorized under Title 3, Subtitle 9 of this
2 article.

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

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

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

8 (b) (1) In any action for damages for personal injury in which the cause of
9 action arises on or after July 1, 1986, an award for noneconomic damages may not exceed
10 \$350,000.

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

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

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

21 (ii) In a wrongful death action in which there are two or more
22 claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the
23 limitation established under paragraph (2) of this subsection, regardless of the number of
24 claimants or beneficiaries who share in the award.

25 (c) An award by the health claims arbitration panel in accordance with §
26 3–2A–05 of this article for damages in which the cause of action arose before January 1,
27 2005, shall be considered an award for purposes of this section.

28 (d) (1) In a jury trial, the jury may not be informed of the limitation
29 established under subsection (b) of this section.

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

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

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

3 A. Reduce each individual award of a primary claimant
4 proportionately to the total award of all of the primary claimants so that the total award to
5 all claimants or beneficiaries conforms to the limitation; and

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

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

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

13 B. Reduce each individual award of a secondary claimant
14 proportionately to the total award of all of the secondary claimants so that the total award
15 to all claimants or beneficiaries conforms to the limitation.

16 (e) The provisions of this section do not apply to a verdict under Title 3, Subtitle
17 2A of this article for damages in which the cause of action arises on or after January 1,
18 2005.]

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
20 apply only prospectively and may not be applied or interpreted to have any effect on or
21 application to any cause of action arising before the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2024.