
HOUSE BILL 1850

State of Washington

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2003 Regular Session

By Representatives Schual-Berke, Pflug, Carrell, Ahern, Chandler, Cox, Alexander, Talcott, Schindler, Mastin, DeBolt, Holmquist and Woods

Read first time 02/12/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to limiting noneconomic damages in actions under
2 chapter 7.70 RCW; amending RCW 4.56.250; and providing a contingent
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 4.56.250 and 1986 c 305 s 301 are each amended to read
6 as follows:

7 (1) As used in this section, the following terms have the meanings
8 indicated unless the context clearly requires otherwise.

9 (a) "Economic damages" means objectively verifiable monetary
10 losses, including medical expenses, loss of earnings, burial costs,
11 loss of use of property, cost of replacement or repair, cost of
12 obtaining substitute domestic services, loss of employment, and loss of
13 business or employment opportunities.

14 (b) "Noneconomic damages" means subjective, nonmonetary losses,
15 including, but not limited to pain, suffering, inconvenience, mental
16 anguish, disability or disfigurement incurred by the injured party,
17 emotional distress, loss of society and companionship, loss of
18 consortium, injury to reputation and humiliation, and destruction of
19 the parent-child relationship.

1 (c) "Bodily injury" means physical injury, sickness, or disease,
2 including death.

3 ~~((d) "Average annual wage" means the average annual wage in the
4 state of Washington as determined under RCW 50.04.355.))~~

5 ~~(2) ((In no action seeking damages for personal injury or death may
6 a claimant recover a judgment for noneconomic damages exceeding an
7 amount determined by multiplying 0.43 by the average annual wage and by
8 the life expectancy of the person incurring noneconomic damages, as the
9 life expectancy is determined by the life expectancy tables adopted by
10 the insurance commissioner. For purposes of determining the maximum
11 amount allowable for noneconomic damages, a claimant's life expectancy
12 shall not be less than fifteen years. The limitation contained in this
13 subsection applies to all claims for noneconomic damages made by a
14 claimant who incurred bodily injury. Claims for loss of consortium,
15 loss of society and companionship, destruction of the parent-child
16 relationship, and all other derivative claims asserted by persons who
17 did not sustain bodily injury are to be included within the limitation
18 on claims for noneconomic damages arising from the same bodily
19 injury.))~~ (a) In an action for damages for injury or death occurring

20 as a result of the provision of health care, the amount of noneconomic
21 damages awarded to the claimant shall not exceed four hundred thousand
22 dollars.

23 (b) The limitation on noneconomic damages in (a) of this subsection
24 does not apply in an action in which the acts or omissions of a
25 defendant were reckless, willful, or wanton.

26 (c) In an action involving more than one defendant where the
27 noneconomic damage award exceeds four hundred thousand dollars as
28 allowed under (b) of this subsection, the responsibility for damages of
29 a defendant whose acts or omissions were not reckless, willful, or
30 wanton shall be determined as though the noneconomic damage award were
31 four hundred thousand dollars.

32 (3) If a case is tried to a jury, the jury shall not be informed of
33 the limitation contained in subsection (2) of this section.

34 NEW SECTION. Sec. 2. This act takes effect if the proposed
35 amendment to Article I, section 21 of the state Constitution limiting
36 noneconomic damages in actions involving provision of health care is

1 validly submitted to and is approved and ratified by the voters at the
2 next general election. If the proposed amendment is not approved and
3 ratified, this act is void in its entirety.

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