

House Bill 1343

By: Representatives Westmoreland of the 86th, Butler of the 88th, Post 1, Burmeister of the 96th, Bannister of the 70th, Post 1, Rice of the 64th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to
2 damages in tort actions, so as to provide for financial limitations with respect to certain
3 damages; to provide for legislative findings; to provide for related matters; to provide for an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to damages in tort
8 actions, is amended by adding a new Code section immediately following Code Section
9 51-12-33, to be designated Code Section 51-12-34, to read as follows:

10 "51-12-34.

11 (a) As used in this Code section, the term 'noneconomic damages' means damages for
12 physical and emotional pain, distress, suffering, inconvenience, physical impairment,
13 mental anguish, disfigurement, loss of enjoyment of life, loss of society and
14 companionship, loss of consortium, and all other nonpecuniary losses of any kind or nature.

15 (b) The General Assembly finds that certain aspects of Georgia's current civil justice
16 system are adversely affecting patient access to health care services, quality patient care,
17 and cost-efficient health care; that the health care liability system is a costly, volatile, and
18 unpredictable mechanism for resolving claims of health care liability and compensating
19 injured patients, and is a deterrent to the sharing of information among health care
20 professionals which sharing would improve patient safety and quality of care. The General
21 Assembly further finds that in the public interest, it continues to be the responsibility of the
22 state to take measures to facilitate an environment which promotes competition among
23 current health and liability insurers, encourages additional competitors to enter the market,
24 to contain health insurance and professional liability insurance costs and thereby provide
25 reasonable assurance of affordable health and professional liability insurance for the benefit

1 of all Georgians. It is the purpose of this Code section to implement reasonable,
2 comprehensive, and effective health care liability designed to:

3 (1) Improve the availability of health care services in cases in which health care liability
4 actions have been shown to be a factor in the decreased availability of services;

5 (2) Reduce the incidence of defensive use of unnecessary tests and procedures; and
6 reduce the rate of increase of the future cost of health care liability insurance, all of which
7 contribute to the escalation of health care costs;

8 (3) Ensure that persons with meritorious health care injury claims receive fair and
9 equitable compensation, including reasonable noneconomic damages;

10 (4) Improve the fairness and cost-effectiveness of our current judicial liability system to
11 resolve disputes over, and provide compensation for, health care liability by reducing
12 uncertainty in the amount of compensation provided to injured individuals; and

13 (5) Provide an increased sharing of information in the health care system which will
14 reduce unintended injury and improve patient care.

15 (c) In any verdict returned or judgment entered in an action for medical malpractice the
16 total amount recoverable for any injury to, or death of, a claimant for noneconomic
17 damages shall not exceed \$250,000.00, regardless of the number of parties against whom
18 the action is brought, or the number of separate claims or actions brought, or the number
19 of parties bringing such claims or actions, with respect to an act or series of acts of
20 malpractice.

21 (d) In any such action for medical malpractice, the jury shall not be informed about the
22 maximum award for noneconomic damages. An award for noneconomic damages in
23 excess of \$250,000.00 shall be reduced by the court either before the entry of judgment,
24 or by amendment of the judgment after entry of judgment, and such reduction shall be
25 made before accounting for any other reduction in damages required by law.

26 (e) In any such action for medical malpractice, if an award of future damages equaling or
27 exceeding \$50,000.00 is made against any party in the action, the trial court shall, upon the
28 request of any party, issue an order providing that such damages be paid by periodic
29 payments. Such periodic payments shall be funded through an annuity."

30 SECTION 2.

31 This Act shall become effective upon its approval by the Governor or upon its becoming law
32 without such approval. This Act shall apply only to causes of action arising on or after the
33 effective date of this Act. Any cause of action arising prior to that date shall continue to be
34 governed by the law in effect at the time such cause of action arose.

1 **SECTION 3.**

2 All laws and parts of laws in conflict with this Act are repealed.