

House Bill 1618

By: Representatives Howard of the 98th, Richardson of the 26th, Murphy of the 97th, Warren of the 99th, Parham of the 94th, and others

A BILL TO BE ENTITLED
AN ACT

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

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
9 a new Code section immediately following Code Section 51-12-33, relating to apportioning
10 a damage award according to the degree of fault, to be designated Code Section 51-12-34,
11 to read as follows:

12 "51-12-34.

13 (a) As used in this Code section, the term 'noneconomic damages' means damages for
14 physical and emotional pain, discomfort, anxiety, hardship, distress, suffering,
15 inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of
16 life, loss of society and companionship, loss of consortium, injury to reputation, and all
17 other nonpecuniary losses of any kind or nature. This term does not include past or future:

18 (1) Medical expenses, including rehabilitation and therapy;

19 (2) Wages;

20 (3) Income;

21 (4) Funeral and burial expenses;

22 (5) The value of services performed by the injured in the absence of the injury or death;

23 or

24 (6) Other monetary expenses.

25 (b) The General Assembly finds that certain aspects of Georgia's current civil justice
26 system are adversely affecting patient access to health care services, quality patient care,

1 and cost-efficient health care; that the health care liability system is a costly, volatile, and
2 unpredictable mechanism for resolving claims of health care liability and compensating
3 injured patients; and is a deterrent to the sharing of information among health care
4 professionals which sharing would improve patient safety and quality of care. The General
5 Assembly further finds that in the public interest, it continues to be the responsibility of the
6 state to take measures to facilitate an environment which promotes competition among
7 current health and liability insurers and encourages additional competitors to enter the
8 market and to contain health insurance and professional liability insurance costs and
9 thereby provide reasonable assurance of affordable health and professional liability
10 insurance for the benefit of all Georgians. It is the purpose of this Code section to
11 implement reasonable, comprehensive, and effective health care liability designed to:

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

14 (2) Reduce the incidence of defensive use of unnecessary tests and procedures and
15 reduce the rate of increase of the future cost of health care liability insurance, both of
16 which contribute to the escalation of health care costs;

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

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

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

24 (c) In any verdict returned or judgment entered in an action for medical malpractice, as
25 defined in Code Section 9-3-70, except an action for wrongful death, the total amount
26 recoverable for any injury to, or death of, a claimant for noneconomic damages shall not
27 exceed \$250,000.00, regardless of the number of parties against whom the action is
28 brought, the number of separate claims or actions brought, or the number of parties
29 bringing such claims or actions, with respect to an act or series of acts of malpractice. In
30 any verdict returned or judgment entered in an action for medical malpractice, as defined
31 in Code Section 9-3-70, which action is for wrongful death, the total amount recoverable
32 for any wrongful death for noneconomic damages shall not exceed \$300,000.00, regardless
33 of the number of parties against whom the action is brought, the number of separate claims
34 or actions brought, or the number of parties bringing such claims or actions, with respect
35 to an act or series of acts of malpractice.

36 (d) In any such action for medical malpractice, the jury shall not be informed about the
37 maximum award for noneconomic damages. An award for noneconomic damages in

1 excess of \$250,000.00, or \$300,000.00 for an action for wrongful death, shall be reduced
2 by the court either before the entry of judgment or by amendment of the judgment after
3 entry of judgment, and such reduction shall be made before accounting for any other
4 reduction in damages required by law.

5 (e) In any such action for medical malpractice, if an award of future damages equaling or
6 exceeding \$250,000.00, or \$300,000.00 for an action for wrongful death, is made against
7 any party in the action, the trial court shall, upon the request of any party, issue an order
8 providing that such damages be paid by periodic payments. Such periodic payments shall
9 be funded through an annuity policy with the premium for such annuity equal to the
10 amount of the award for future damages."

11 **SECTION 2.**

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

16 **SECTION 3.**

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