

House Bill 329

By: Representatives Lindsey of the 54th, Willard of the 49th, Ralston of the 7th, Mumford of the 95th, Miller of the 106th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 12 of Title 51 of the Official Code of Georgia Annotated,
2 relating to general provisions for damages in tort actions, so as to limit noneconomic
3 damages in certain actions relating to medical negligence; to provide for definitions; to
4 provide for related matters; to provide for an effective date and applicability; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to
9 general provisions for damages in tort actions, is amended by adding a new Code section to
10 the end of the article to read as follows:

11 "51-12-15.

12 (a) As used in this Code section, the term:

13 (1) 'Catastrophic injury' means a permanent impairment constituted by:

14 (A) Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk;

15 (B) Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use
16 of that appendage;

17 (C) Severe brain or closed-head injury as evidenced by:

18 (i) Severe sensory or motor disturbances;

19 (ii) Severe communication disturbances;

20 (iii) Severe complex integrated disturbances of cerebral function;

21 (iv) Severe episodic neurological disorders; or

22 (v) Other severe brain and closed-head injury conditions at least as severe in nature
23 as any condition provided in divisions (i) through (iv) of this subparagraph;

24 (D) Second-degree or third-degree burns of 25 percent or more of the total body
25 surface or third-degree burns of 5 percent or more to the face and hands;

26 (E) Blindness, defined as a complete and total loss of vision; or

27 (F) Loss of reproductive organs which results in an inability to procreate.

1 (2) 'Claimant' means any person who has a cause of action for damages based on
2 personal injury or wrongful death arising from medical negligence.

3 (3) 'Health care provider' means any hospital, ambulatory surgical center, birthing center,
4 or mobile surgical facility as defined and licensed under Chapter 7 of Title 31; any person
5 licensed under Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title 43; a
6 clinical lab licensed under Chapter 22 of Title 31; a health maintenance organization
7 certificated under Chapter 21 of Title 33; a blood bank; a plasma center; an industrial
8 clinic; a renal dialysis facility; or a professional association, partnership, corporation,
9 joint venture, or other association for professional activity by health care providers.

10 (4) 'Medical negligence' means medical malpractice, whether grounded in tort or in
11 contract.

12 (5) 'Noneconomic damages' means nonfinancial losses that would not have occurred but
13 for the injury giving rise to the cause of action, including pain and suffering,
14 inconvenience, physical impairment, mental anguish, disfigurement, loss of capacity for
15 enjoyment of life, and other nonfinancial losses to the extent the claimant is entitled to
16 recover such damages under general law, including an action for wrongful death pursuant
17 to Chapter 4 of this title.

18 (6) 'Practitioner' means any person licensed under Chapter 9, 10A, 11, 11A, 26, 28, 30,
19 33, 34, 35, 39, or 44 of Title 43. The term also means any association, corporation, firm,
20 partnership, or other business entity under which such practitioner practices or any
21 employee of such practitioner or entity acting in the scope of his or her employment. For
22 the purpose of determining the limitations on noneconomic damages set forth in this
23 Code section, the term includes any person or entity for whom a practitioner is
24 vicariously liable and any person or entity whose liability is based solely on such person
25 or entity being vicariously liable for the actions of a practitioner.

26 (b) Subject to the limitations set forth in subsection (c) of this Code section, with respect
27 to a cause of action for personal injury or wrongful death arising from medical negligence
28 of practitioners or health care providers, regardless of the number of such defendants,
29 noneconomic damages shall not exceed \$750,000.00 per claimant. No practitioner shall be
30 liable for more than \$750,000.00 in noneconomic damages, regardless of the number of
31 claimants.

32 (c) If the trier of fact determines that the defendant's negligence resulted in a catastrophic
33 injury, a permanent vegetative state, or death, the limitations set forth in subsection (b) of
34 this Code section shall not be applied."

