

HOUSE BILL REPORT

HB 1034

As Reported By House Committee On:
Judiciary

Title: An act relating to correcting an unconstitutional provision relating to claims for noneconomic damages limitations.

Brief Description: Correcting an unconstitutional provision relating to claims for noneconomic damages limitations.

Sponsors: Representatives Appelwick, Padden, Ludwig and Karahalios; by request of Law Revision Commission.

Brief History:

Reported by House Committee on:
Judiciary, January 29, 1993, DP.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: In 1986, as part of the Tort Reform Act, the Legislature placed a limit on the amount of "noneconomic" damages that a plaintiff in a personal injury suit could recover.

Noneconomic damages were defined as "subjective, nonmonetary losses" including such things as pain and suffering, disability or disfigurement, emotional distress, injury to reputation, loss of consortium, and destruction of the child-parent relationship.

The limit set on noneconomic damages was determined by a formula. That formula consisted of multiplying the state's average annual wage, times 0.43, times the life expectancy of the plaintiff.

In 1989, the Washington State Supreme Court in Sofie v. Fibreboard Corp., 112 Wn.2d 636, declared the noneconomic

damages limitation to be unconstitutional. The court held that the limitation violates the state constitution's guarantee of a jury trial, because it deprives the plaintiff of a jury determination of the amount of damages. Three justices dissented from that holding.

The Law Revision Commission has recommended that the noneconomic damages limitation statute be repealed since it has been declared unconstitutional.

Summary of Bill: The statute that placed a limit on the amount of noneconomic damages that a plaintiff could recover is repealed.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: It is extremely unlikely that the Washington State Supreme Court will reverse itself. Having an unconstitutional statute left on the books is unnecessarily misleading.

Testimony Against: None.

Witnesses: Professor Marjorie Rombauer, Washington Law Revision Commission (pro); and Larry Shannon, Washington State Trial Lawyers Association (pro).