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HOUSE BILL 1910

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Schual-Berke, Pflug and McMahan

Read first time 02/14/2003. 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.))~~

20       (a) In an action for damages for injury or death occurring  
21 as a result of the provision of health care, the amount of noneconomic  
22 damages awarded to the claimant shall not exceed four hundred thousand  
23 dollars. July 1st of each year beginning July 1, 2005, the  
24 administrator for the courts shall adjust the amount specified in this  
25 subsection for inflation in accordance with the method established in  
26 RCW 2.12.037. The administrator for the courts shall publish the  
27 adjusted figure in the Washington state register.

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

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

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

1        NEW SECTION.    **Sec. 2.**    This act takes effect if the proposed  
2 amendment to Article I, section 21 of the state Constitution limiting  
3 noneconomic damages in actions involving provision of health care is  
4 validly submitted to and is approved and ratified by the voters at the  
5 next general election.    If the proposed amendment is not approved and  
6 ratified, this act is void in its entirety.

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