



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1158 (as introduced 11-26-24)
Sponsor: Senator Jeff Irwin
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 12-9-24

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- **Increase, from \$280,000 to \$1.0 million, the maximum amount of damages recoverable for noneconomic loss in a case resulting from medical malpractice.**
- **Increase, from \$500,000 to \$3.0 million, the maximum amount of damages recoverable for noneconomic loss in a case of medical malpractice resulting in certain permanent disabilities.**
- **Expand the list of permanent disabilities that would qualify a case of medical malpractice for the higher amount of recoverable damages.**
- **Specify that the statutory maximums for recoverable damages would not apply if it were proven that the defendant acted with extreme negligence, intentional wrongdoing, fraud, or reckless disregard for others' rights, among other things.**

The Act establishes requirements for the entry of judgment in medical malpractice actions. It sets a \$280,000 limit on the total amount of damages recoverable for noneconomic loss resulting from the medical malpractice of all defendants in a claim for damages alleging medical malpractice except for damages rewarded due to negligence for certain permanent disabilities described below, in which case the limit is \$500,000.¹ The State Treasurer must adjust the amounts each year to reflect the cumulative percentage change in the Consumer Price Index. (As adjusted, the 2024 standard limit on noneconomic damages is \$569,000 or if an exemption applies, \$1,016,000.²)

"Noneconomic loss" means damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, loss of society and companionship, and loss of consortium, whether claimed under Section 2922, or other noneconomic loss³.

Currently, to be eligible for a damage awarded as a result of negligence of at least one defendant, one of the following must apply as determined by the court under Section 6304⁴:

- The plaintiff is hemiplegic, paraplegic, or quadriplegic resulting in a total permanent functional loss of at least one limb caused by injury to the brain or spinal cord.

² "Limitation on Noneconomic Damages and Product liability Determination on Economic Damages.", Michigan Department of Treasury. Retrieved 12-8-24.

³ Section 2922 allows for a wrongful death action to be brought by the personal representative of the deceased's estate against those responsible for the death.

⁴ Section 6304 requires the court to determine and allocate fault among parties in personal injury, property damage, or wrongful death cases involving multiple parties.

- The plaintiff has permanently impaired cognitive capacity rendering him or her incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal, daily living.
- There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.

The bill would modify the provisions described above. Under the bill, in a claim for damages alleging medical malpractice by or against a person or party, the total amount of damages for noneconomic loss recoverable by each plaintiff including the individual making a claim under Section 2922, could not exceed \$1.0 million per plaintiff and per defendant. In a case resulting from medical malpractice of at least one defendant where at least one of the following applied, there would be a \$3.0 million limit per plaintiff and per defendant:

- The plaintiff was functionally hemiplegic, paraplegic, or quadriplegic or suffered from functional loss of at least one limb.
- The plaintiff had permanently impaired cognitive capacity or was permanently incapable of independently performing the activities of daily life.
- There was permanent loss of or damage to a reproductive organ.
- The plaintiff died.
- The plaintiff suffered permanent injury.
- The plaintiff suffered substantial disfigurement.
- The plaintiff suffered serious impairment of an important body function.

The State Treasurer would have to annually adjust the limitations on damages for noneconomic loss by the rate of the CPI.

Additionally, the bill specifies that any limitation on the recovery of damages would not apply to actions or claims in which the trier of fact determined by a preponderance of the evidence that any of the following existed:

- The conduct of a defendant amounted to gross negligence, intentional conduct, fraudulent conduct, or reckless disregard for the rights of others.
- A defendant falsified, destroyed, concealed, or altered the medical records relating to the claim or conduct at issue.
- A defendant was under the influence of alcohol, drugs, or other intoxicant or stimulant relating to the claim or conduct at issue.
- A defendant had previously settled or had been found liable for a claim of medical malpractice.
- A defendant failed to obtain professional liability insurance coverage.

MCL 600.1483

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bills would have no fiscal impact on State or local courts.

Fiscal Analyst: Michael Siracuse

SAS\S2324\s1158sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.