

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 518

Representatives Boggs, Russo

**Cosponsors: Representatives Crossman, Hicks-Hudson, Lepore-Hagan, Sobecki,
O'Brien, Galonski, Miranda, Smith, K., Brown, Boyd, Crawley, Weinstein**

A BILL

To amend section 2315.18 of the Revised Code to
remove the cap on damages for noneconomic loss
when a victim of rape or assault brings a tort
action.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2315.18 of the Revised Code be
amended to read as follows:

Sec. 2315.18. (A) As used in this section and in section
2315.19 of the Revised Code:

(1) "Asbestos claim" has the same meaning as in section
2307.91 of the Revised Code.

(2) "Economic loss" means any of the following types of
pecuniary harm:

(a) All wages, salaries, or other compensation lost as a
result of an injury or loss to person or property that is a
subject of a tort action;

(b) All expenditures for medical care or treatment,

rehabilitation services, or other care, treatment, services, 17
products, or accommodations as a result of an injury or loss to 18
person or property that is a subject of a tort action; 19

(c) Any other expenditures incurred as a result of an 20
injury or loss to person or property that is a subject of a tort 21
action, other than attorney's fees incurred in connection with 22
that action. 23

(3) "Medical claim," "dental claim," "optometric claim," 24
and "chiropractic claim" have the same meanings as in section 25
2305.113 of the Revised Code. 26

(4) "Noneconomic loss" means nonpecuniary harm that 27
results from an injury or loss to person or property that is a 28
subject of a tort action, including, but not limited to, pain 29
and suffering, loss of society, consortium, companionship, care, 30
assistance, attention, protection, advice, guidance, counsel, 31
instruction, training, or education, disfigurement, mental 32
anguish, and any other intangible loss. 33

(5) "Occurrence" means all claims resulting from or 34
arising out of any one person's bodily injury. 35

(6) "Product liability claim" has the same meaning as in 36
section 2307.71 of the Revised Code. 37

(7) "Tort action" means a civil action for damages for 38
injury or loss to person or property. "Tort action" includes a 39
civil action upon a product liability claim or an asbestos 40
claim. "Tort action" does not include a civil action upon a 41
medical claim, dental claim, optometric claim, or chiropractic 42
claim or a civil action for damages for a breach of contract or 43
another agreement between persons. 44

(8) "Trier of fact" means the jury or, in a nonjury 45

action, the court. 46

(B) In a tort action to recover damages for injury or loss 47
to person or property, all of the following apply: 48

(1) There shall not be any limitation on the amount of 49
compensatory damages that represents the economic loss of the 50
person who is awarded the damages in the tort action. 51

(2) Except as otherwise provided in division (B) (3) or (4) 52
of this section, the amount of compensatory damages that 53
represents damages for noneconomic loss that is recoverable in a 54
tort action under this section to recover damages for injury or 55
loss to person or property shall not exceed the greater of two 56
hundred fifty thousand dollars or an amount that is equal to 57
three times the economic loss, as determined by the trier of 58
fact, of the plaintiff in that tort action to a maximum of three 59
hundred fifty thousand dollars for each plaintiff in that tort 60
action or a maximum of five hundred thousand dollars for each 61
occurrence that is the basis of that tort action. 62

(3) There shall not be any limitation on the amount of 63
compensatory damages that represents damages for noneconomic 64
loss that is recoverable in a tort action to recover damages for 65
injury or loss to person or property if the noneconomic losses 66
of the plaintiff are for either of the following: 67

(a) Permanent and substantial physical deformity, loss of 68
use of a limb, or loss of a bodily organ system; 69

(b) Permanent physical functional injury that permanently 70
prevents the injured person from being able to independently 71
care for self and perform life-sustaining activities. 72

(4) There shall not be any limitation on the amount of 73
compensatory damages that represents damages for noneconomic 74

loss that is recoverable in a tort action brought by a victim of 75
rape, felonious assault, aggravated assault, assault, or 76
negligent assault asserting any claim resulting from the 77
offense. 78

(C) In determining an award of compensatory damages for 79
noneconomic loss in a tort action, the trier of fact shall not 80
consider any of the following: 81

(1) Evidence of a defendant's alleged wrongdoing, 82
misconduct, or guilt; 83

(2) Evidence of the defendant's wealth or financial 84
resources; 85

(3) All other evidence that is offered for the purpose of 86
punishing the defendant, rather than offered for a compensatory 87
purpose. 88

(D) If a trial is conducted in a tort action to recover 89
damages for injury or loss to person or property and a plaintiff 90
prevails in that action, the court in a nonjury trial shall make 91
findings of fact, and the jury in a jury trial shall return a 92
general verdict accompanied by answers to interrogatories, that 93
shall specify all of the following: 94

(1) The total compensatory damages recoverable by the 95
plaintiff; 96

(2) The portion of the total compensatory damages that 97
represents damages for economic loss; 98

(3) The portion of the total compensatory damages that 99
represents damages for noneconomic loss. 100

(E) (1) After the trier of fact in a tort action to recover 101
damages for injury or loss to person or property complies with 102

division (D) of this section, the court shall enter a judgment 103
in favor of the plaintiff for compensatory damages for economic 104
loss in the amount determined pursuant to division (D) (2) of 105
this section, and, subject to division (F) (1) of this section, 106
the court shall enter a judgment in favor of the plaintiff for 107
compensatory damages for noneconomic loss. Except as provided in 108
division (B) (3) or (4) of this section, in no event shall a 109
judgment for compensatory damages for noneconomic loss exceed 110
the maximum recoverable amount that represents damages for 111
noneconomic loss as provided in division (B) (2) of this section. 112
Division (B) of this section shall be applied in a jury trial 113
only after the jury has made its factual findings and 114
determination as to the damages. 115

(2) Prior to the trial in the tort action described in 116
division (D) of this section, any party may seek summary 117
judgment with respect to the nature of the alleged injury or 118
loss to person or property, seeking a determination of the 119
damages as described in division (B) (2) of this section. 120

(F) (1) A court of common pleas has no jurisdiction to 121
enter judgment on an award of compensatory damages for 122
noneconomic loss in excess of the limits set forth in this 123
section. 124

(2) If the trier of fact is a jury, the court shall not 125
instruct the jury with respect to the limit on compensatory 126
damages for noneconomic loss described in division (B) (2) of 127
this section, and neither counsel for any party nor a witness 128
shall inform the jury or potential jurors of that limit. 129

(G) With respect to a tort action to which division (B) (2) 130
of this section applies, any excess amount of compensatory 131
damages for noneconomic loss that is greater than the applicable 132

amount specified in division (B) (2) of this section shall not be 133
reallocated to any other tortfeasor beyond the amount of 134
compensatory damages that the tortfeasor would otherwise be 135
responsible for under the laws of this state. 136

(H) This section does not apply to any of the following: 137

(1) Tort actions that are brought against the state in the 138
court of claims, including, but not limited to, those actions in 139
which a state university or college is a defendant and to which 140
division (B) (3) of section 3345.40 of the Revised Code applies; 141

(2) Tort actions that are brought against political 142
subdivisions of this state and that are commenced under or are 143
subject to Chapter 2744. of the Revised Code. Division (C) of 144
section 2744.05 of the Revised Code applies to recoverable 145
damages in those actions. 146

(3) Wrongful death actions brought pursuant to Chapter 147
2125. of the Revised Code. 148

(I) If the provisions regarding the limits on compensatory 149
damages for noneconomic loss set forth in division (B) (2) of 150
this section have been determined to be unconstitutional, then 151
division (C) of this section and section 2315.19 of the Revised 152
Code shall govern the determination of an award of compensatory 153
damages for noneconomic loss in a tort action. 154

Section 2. That existing section 2315.18 of the Revised 155
Code is hereby repealed. 156