

**HB 447 INCREASE TORT CAPS  
PROPONENT TESTIMONY OCT. 29, 2025  
HOUSE JUDICIARY COMMITTEE**

Chairman Thomas, Vice Chair Swearingen, Ranking Member Synenberg, and members of the House Judiciary Committee, I'm Sharon Montgomery and I'm here to tell you why I support HB 447 to increase the caps on non-economic damages in a civil suit.

First, though, I'd like you to think about why some people file a lawsuit. People injured in traffic crashes sometimes resort to suing because the criminal justice system doesn't provide the support and justice they need. In fact, with Marsy's Law, most of them aren't even victims of a criminal offense. The current definition of victim is someone harmed by an act that is subject to incarceration AND is NOT eligible to be disposed of by a traffic violations bureau. I'm attaching Traffic Rule 13 which lists the offenses that can't be handled by a traffic violations bureau. When you read it, please keep in mind that there is no exception for if any of those offenses cause serious physical harm or death. I tried to get that rule amended to account for serious harm, but I was not successful.

When the legal system gives traffic offenders who cause great harm a slap-on-the wrist penalty, the casualties are denied both justice and sufficient support, including financial support such as restitution. That's why some turn to the expensive, grueling, time-consuming gamble of a lawsuit.

From your comments last week, I could tell that you understand the justice of monetary awards for non-economic damages. Thank you! Rep. Stewart mentioned several times the difficulty in quantifying those damages and there were comments about buying power. Awarding the right number of dollars is only part of the reason for non-economic awards. The other part is the official acknowledgment from the legal system that something awful happened. Since it can't be made to unhappen, money is the only thing the system can offer. No dollars, or a small number of dollars is demeaning; it says the legal system doesn't consider what happened to be important.

I heard last week that many of you support the idea of caps. I don't. My understanding of our judicial system is that the unique facts of each case are to be heard BEFORE any decision is made about it. Pre-determined caps on any awards for all cases before any are even heard seems to me to be antithetical to this.

However, since we're stuck with caps, at least for now, I truly appreciate Rep. Stewart's efforts to make them fit the reality of today's economy.

I would ask, though, that he give serious thought to possibly removing the per-incident caps. I think they, like the per-incident caps in car insurance, are even less justified than per-person caps. Victims have no control over how many of them there are so expecting them to divide the per-incident amount can have the real-life effect of giving them less than the per-person amount. I realize the per-person cap is just that, a cap, a maximum, not a guarantee. But I still think victims should not be penalized for being unlucky enough to be one of several.

So, those facts out of the way, I want to let you do exactly with Rep. Oelslager advised you to do: listen to the injured people. You heard the bare facts of my story last week: life-threatening complications from injury when a driver using his phone caused a three-car crash.

The life-threatening injury was a severely-bleeding ulcer on my intestine, right by a major artery. During the time doctors tried to get it to stop long enough to find out where I was bleeding from, and then do the surgery to repair it, I was given 12 units of blood. Our bodies normally hold about eight. By sheer luck, the night I bled, our son was home from school. I was too weak to think clearly and realize I personally was in great danger but I did remember a First Aid class where I learned that vomiting blood was an emergency so I asked him to call the squad.

If he had not been home, there is a strong chance I would have passed out trying to get to the phone and would have bled to death in the hallway.

During surgery, I had to be resuscitated. The surgeon determined the ulcer was a result of the stress and physical damage from the crash.

Between living with my parents then with my husband, I had lived with girlfriends; I'd never lived alone before. Now I was alone after having suddenly almost died. I don't consider myself a fearful person in general but at that point I was terrified. Our son bought me a cordless phone and I carried it with me every time I left the room the phone was in.

Periodically, my whole body trembled severely. I found out that in the recovery room after the ulcer surgery I had what looked like a convulsion. Putting the pieces together, my doctor concluded these were panic attacks.

I tried cognitive behavioral therapy, special therapy for panic, a peer support group for panic attacks, and medication. It took a few years of this to learn that the medication was what worked best for me. After many years, I decided that by then I surely must be mentally healthy enough not to need it so with my doctor's approval and guidance, I started to taper off but had an attack so we decided it was still too soon.

I went through that process again a few years later with the same results. Last year I tried again and got all the way through to no more pills. Within days, I had a major attack that lasted all night long. Panic attacks affect different people differently. Because mine started after two brushes with death while I was already psychologically weak, for me they were the certainty that I was about to die, even when I had no physical symptoms and was in a physically safe situation.

The all-night one was one of the worst I'd ever had and that was 24 years after the triggering events! My doctor said it was not a matter of being overly dependent on the pills. I was on the lowest dose possible and the medication was not addictive.

When the attack finally started to subside, I got to a point we all get to when trying to go to sleep, when we feel our minds starting to drift from wakefulness to sleep. My rational mind was saying, "Yes, finally, it's over and I can go to sleep." But, my panicked mind was saying, even more forcefully, "Don't give in. Don't drift off. You're not drifting off to sleep; you're drifting off to death. You'll never wake up."

I'm sorry this testimony has been so long but I feel you need to know both why some people have to resort to suing and what one kind of non-economic damage is actually like. Thank you for your patience and I'll be happy to answer any questions.

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**RULE 13. Traffic Violations Bureau.**

**(A) Establishment and operation of traffic violations bureau**

Each court shall establish a traffic violations bureau. The juvenile division of the court of common pleas may establish a violations bureau pursuant to Traffic Rule 13.1. The court shall appoint its clerk as violations clerk. If there is no clerk, the court shall appoint any appropriate person of the municipality or county in which the court sits. The violations bureau and violations clerk shall be under the direction and control of the court. Fines and costs shall be paid to, received by, and accounted for by the violations clerk.

The violations bureau shall accept appearance, waiver of trial, plea of guilty, and payment of fine and costs for offenses within its authority.

**(B) Authority of violations bureau**

All traffic offenses except those listed in this division may be disposed of by a traffic violations bureau. The following traffic offenses shall not be processed by a traffic violations bureau:

- (1) Indictable offenses;
- (2) Operating a motor vehicle while under the influence of alcohol or any drug of abuse;
- (3) Leaving the scene of an accident;
- (4) Driving while under suspension or revocation of a driver's or commercial driver's license when jail is a possible penalty;
- (5) Driving without being licensed to drive when jail is a possible penalty;
- (6) A third moving traffic offense within a twelve-month period when jail is a possible penalty;
- (7) Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child;
- (8) Willfully eluding or fleeing a police officer;
- (9) Drag racing.