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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 292  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Blessing

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### SUMMARY

#### Increase in damage limits

##### Compensatory damages in a tort action or medical malpractice action

- Increases the amount of compensatory damages recoverable for noneconomic loss in a tort action or medical malpractice action to a minimum of \$415,000 and a maximum of \$580,000 for each plaintiff and a maximum of \$830,000 for each occurrence.
- Specifies that there is no limitation on the amount of compensatory damages for noneconomic loss that is recoverable in a medical malpractice action if the noneconomic losses are for catastrophic injuries.

##### Wrongful death

- Increases the maximum amount of damages one may recover in a wrongful death action against a political subdivision or a state university or college that do not represent the actual loss of the person to \$415,000 in favor of any one person.

##### Punitive and exemplary damages

- Increases the maximum amount of punitive or exemplary damages in a tort action to \$580,000 when the tortfeasor is a small business or individual.

#### Adjustment of dollar figure amounts for damages

- Requires the Department of Taxation (DOT), in January of each year, to adjust each of the actual dollar figures and amounts for compensatory damages for noneconomic loss in a tort action or medical malpractice action, punitive and exemplary damages in a tort action, and damages in a wrongful death action against a political subdivision or state university or college or each of the actual dollar amounts determined by DOT.

- Requires that the adjustments be based on the percentage increase in the Consumer Price Index (CPI) as determined by the U.S. Bureau of Labor Statistics (U.S. city average, all urban consumers) for the 12-month period ending on June 30 of the immediately preceding calendar year.
- Prohibits DOT from making any increases if the CPI for that period did not increase.
- Specifies procedures DOT must follow in making the adjustments and requires DOT to prepare a report with the dollar figure and amount calculations.

### **Trial procedures**

- Specifies that a judgment in a tort action or medical malpractice action for compensatory damages for noneconomic loss must not exceed the maximum recoverable amount that represents damages for noneconomic loss as adjusted and calculated by DOT.
- Specifies that the court does not have jurisdiction to enter judgment on an award of compensatory damages for noneconomic loss in excess of the adjustments and calculations set by DOT.
- Prohibits punitive or exemplary damages from being awarded against a defendant when damages have already been awarded against the defendant, the plaintiff seeks compensatory damages, and the award exceeds the maximum amount under the DOT adjustment.

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## **DETAILED ANALYSIS**

### **Increase in damage limits**

#### **Compensatory damages in a tort action or medical malpractice action**

The bill increases the amount of compensatory damages recoverable for noneconomic loss for injury or loss in a tort action or a civil action upon a medical, dental, optometric, or chiropractic claim (medical malpractice action) from a minimum of \$250,000 to \$415,000 and from a maximum of \$350,000 to \$580,000 for each plaintiff and from a maximum of \$500,000 to \$830,000 for each occurrence that is the basis of the tort action or medical malpractice action.<sup>1</sup>

The bill also specifies that there is no limitation on the amount of compensatory damages for noneconomic loss that is recoverable in a medical malpractice action if the noneconomic losses are for permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system, or permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life sustaining activities. Under existing law, the amount recoverable for noneconomic loss in a medical

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<sup>1</sup> R.C. 2315.18(B)(2) and 2323.43(A)(2).

malpractice action may exceed \$350,000 for each plaintiff or \$500,000 for each occurrence but cannot exceed \$500,000 for each plaintiff or \$1 million for each occurrence.<sup>2</sup>

### **Wrongful death**

The bill increases the maximum amount of damages one may recover in a wrongful death action against a political subdivision or a state university or college that do not represent the actual loss of the person from \$250,000 to \$415,000 in favor of any one person.<sup>3</sup>

### **Punitive and exemplary damages in a tort action**

Continuing law provides that if the defendant is a small employer or individual, the court is prohibited from entering judgment in a tort action for punitive or exemplary damages in excess of the lesser of two times the amount of the compensatory damages awarded to the plaintiff from the defendant or 10% of the employer's or individual's net worth when the tort was committed. The bill increases the maximum amount from \$350,000 to \$580,000.<sup>4</sup>

### **Adjustment of dollar figure amounts for damages**

The bill requires the Department of Taxation (DOT), in January of each year, to adjust each of the actual dollar figures and amounts for compensatory damages for noneconomic loss in a tort action or medical malpractice action, punitive and exemplary damages in a tort action, and damages in a wrongful death action against a political subdivision or state university or college (hereafter referred to as "damages") or each of the actual dollar amounts determined by DOT. The adjustments must be based on the percentage increase in the Consumer Price Index (CPI) as determined by the U.S. Bureau of Labor Statistics (U.S. city average, all urban consumers) for the 12-month period ending on June 30 of the immediately preceding calendar year. The bill prohibits DOT from making any increases if the CPI for that period did not increase.<sup>5</sup>

The bill also requires DOT to calculate all adjustments on or before January 31 of each calendar year. The first adjustments must be made in January following one year after the bill's effective date.<sup>6</sup> DOT must also certify all calculations made on or before January 31 of each calendar year.<sup>7</sup> DOT is also required to prepare a report setting forth the amounts of the adjustments calculated and certified on or before February 15 of each year.<sup>8</sup> The report must contain an indication of the period when the calculated amounts apply, a summary of how the amounts were calculated, and a statement that the report and all related documents are

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<sup>2</sup> R.C. 2323.43(D)(3).

<sup>3</sup> R.C. 2744.05(B)(3) and 3345.40(B)(3).

<sup>4</sup> R.C. 2315.21(D)(2)(b).

<sup>5</sup> R.C. 2315.18(B)(4)(a), 2315.21(D)(3)(a), 2323.43(A)(4)(a), 2744.05(C)(2)(a), and 3345.40(B)(4)(a).

<sup>6</sup> R.C. 2315.18(B)(4)(b), 2315.21(D)(3)(b), 2323.43(A)(4)(b), 2744.05(C)(2)(b), and 3345.40(B)(4)(b).

<sup>7</sup> R.C. 2315.18(B)(4)(c), 2315.21(D)(3)(c), 2323.43(A)(4)(c), 2744.05(C)(2)(c), and 3345.40(B)(4)(c).

<sup>8</sup> R.C. 2315.18(B)(4)(d), 2315.21(D)(3)(d), 2323.43(A)(4)(d), 2744.05(C)(2)(d), and 3345.40(B)(4)(d).

available for inspection and copying at the DOT office.<sup>9</sup> DOT is also required to transmit the report to the General Assembly on or before February 15 of each year.<sup>10</sup> On February 15 of each year, each of the dollar amounts of the adjustments set forth in the report of DOT must replace each corresponding dollar figure related to damages or each of the corresponding actual dollar amounts calculated, whichever is applicable, for the period in which the calculated amounts apply as indicated in the report of DOT.<sup>11</sup>

## **Trial procedures**

Under continuing law a judgment in a tort action or medical malpractice action for compensatory damages for noneconomic loss must not exceed the maximum recoverable amount that represents damages for noneconomic loss or as adjusted and calculated by DOT under the bill and the court does not have jurisdiction to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set under continuing law, or the adjustments and calculations set by DOT under the bill.<sup>12</sup> Any party may seek summary judgment with respect to the nature of the alleged injury, or loss to person or property seeking a determination of the damages for noneconomic loss as limited under continuing law, or as adjusted and calculated by DOT under the bill.<sup>13</sup> Continuing law prohibits the court from instructing the jury with respect to the limit on compensatory damages for noneconomic loss or the adjusted and calculated limit provided by DOT under the bill if the trier of fact is a jury and neither counsel for any party nor a witness can inform the jury or potential jurors of that limit.<sup>14</sup>

The bill provides that an excess amount of compensatory damages for noneconomic loss that is greater than the applicable amount of the adjustment and calculation provided by DOT cannot be reallocated to any other tortfeasor beyond the amount of compensatory damages that the tortfeasor would otherwise be responsible for under Ohio law.<sup>15</sup>

With regards to a tort action, continuing law provides that the Revised Code will govern the determination of an award of compensatory damages for noneconomic loss if the provisions regarding the limits on compensatory damages for noneconomic loss, or under the bill the damages adjusted or calculated by DOT, were determined to be unconstitutional.<sup>16</sup> Under continuing law, the court of common pleas does not have jurisdiction in any tort action where the limit on the amount of compensatory damages for noneconomic loss apply to enter judgment

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<sup>9</sup> R.C. 2315.18(B)(4)(e), 2315.21(D)(3)(e), 2323.43(A)(4)(e), 2744.05(C)(2)(e), and 3345.40(B)(4)(e).

<sup>10</sup> R.C. 2315.18(B)(4)(f), 2315.21(D)(3)(f), 2323.43(A)(4)(f), 2744.05(C)(2)(f), and 3345.40(B)(4)(f).

<sup>11</sup> R.C. 2315.18(B)(4)(g), 2315.21(D)(3)(g), 2323.43(A)(4)(g), 2744.05(C)(2)(g), and 3345.40(B)(4)(g).

<sup>12</sup> R.C. 2315.18(E)(1) and (F)(1) and 2323.43(C)(1) and (D)(1).

<sup>13</sup> R.C. 2315.18(E)(2) and 2323.43(C)(2).

<sup>14</sup> R.C. 2315.18(F)(2) and 2323.43(D)(2).

<sup>15</sup> R.C. 2315.18(G) and 2323.43(E).

<sup>16</sup> R.C. 2315.18(I).

on an award of compensatory damages for noneconomic loss in excess of the limits set by DOT, or in excess of the adjusted amount of the limits provided by DOT under the bill.<sup>17</sup>

Regarding a medical malpractice action, continuing law requires an attorney to make an application in the probate court of the county where the civil action was commenced or settlement entered if attorney's fees exceed the amount of limits on compensatory damages for noneconomic loss, or as adjusted and calculated by DOT under the bill pursuant to a contingency fee agreement between an attorney and plaintiff.<sup>18</sup>

The bill prohibits punitive or exemplary damages from being awarded against a defendant when damages have already been awarded against the defendant based on the same act or course of conduct that is alleged to have caused the injury or loss to the plaintiff's person or property, the plaintiff seeks compensatory damages, and the award exceeds the maximum amount under the DOT adjustment.<sup>19</sup>

Under continuing law, a court of common pleas does not have jurisdiction in a tort action where the amounts apply, to award punitive or exemplary damages that exceed the amount limitation. The bill specifies that the court does not have jurisdiction to award punitive or exemplary damages that exceed the adjusted amounts provided by DOT.<sup>20</sup>

Under continuing law, the bifurcated trial provisions set forth in the compensatory damages in tort actions statute, the ceiling on recoverable punitive or exemplary damages within that statute under the bill, and the provisions of that statute under the bill apply to awards of punitive or exemplary damages.<sup>21</sup>

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## HISTORY

Action	Date
Introduced	10-14-25

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ANSB0292IN-136/ts

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<sup>17</sup> R.C. 2305.01.

<sup>18</sup> R.C. 2323.43(F)(1).

<sup>19</sup> R.C. 2315.21(D)(6)(a).

<sup>20</sup> R.C. 2305.01.

<sup>21</sup> R.C. 2307.80(E) and 2315.21(D)(2), (3), and (4).