

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 199**

**Representatives Boggs, Russo**

**Cosponsors: Representatives Weinstein, Leland, Brown, Liston, O'Brien,  
Lightbody, Miranda, Smith, K., Lepore-Hagan, Sheehy, Sobecki, Kelly, Boyd,  
Howse, Miller, A.**

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**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, 16  
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  
action, the court. 45  
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(B) In a tort action to recover damages for injury or loss  
to person or property, all of the following apply: 47  
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(1) There shall not be any limitation on the amount of  
compensatory damages that represents the economic loss of the  
person who is awarded the damages in the tort action. 49  
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(2) Except as otherwise provided in division (B) (3) or (4)  
of this section, the amount of compensatory damages that  
represents damages for noneconomic loss that is recoverable in a  
tort action under this section to recover damages for injury or  
loss to person or property shall not exceed the greater of two  
hundred fifty thousand dollars or an amount that is equal to  
three times the economic loss, as determined by the trier of  
fact, of the plaintiff in that tort action to a maximum of three  
hundred fifty thousand dollars for each plaintiff in that tort  
action or a maximum of five hundred thousand dollars for each  
occurrence that is the basis of that tort action. 52  
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(3) There shall not be any limitation on the amount of  
compensatory damages that represents damages for noneconomic  
loss that is recoverable in a tort action to recover damages for  
injury or loss to person or property if the noneconomic losses  
of the plaintiff are for either of the following: 63  
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(a) Permanent and substantial physical deformity, loss of  
use of a limb, or loss of a bodily organ system; 68  
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(b) Permanent physical functional injury that permanently  
prevents the injured person from being able to independently  
care for self and perform life-sustaining activities. 70  
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(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