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H.B. 518
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Boggs and Russo

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SUMMARY

- Provides that there cannot be any limitation on the amount of compensatory damages for noneconomic loss in a tort action brought by the victim of the offense of rape, felonious assault, aggravated assault, assault, or negligent assault asserting any claim resulting from the offense.

DETAILED ANALYSIS

Exception to limitations on noneconomic damages in tort actions

Current law generally limits the amount of compensatory damages for noneconomic loss that is recoverable in a tort action. The bill makes an exception by providing that there cannot be any limitation on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action brought by the victim of the offense of rape, felonious assault, aggravated assault, assault, or negligent assault asserting any claim resulting from the rape, felonious assault, aggravated assault, assault, or negligent assault.¹ The otherwise applicable current law limitations on the amount of compensatory damages for noneconomic loss are described below.²

Current law

Under current law, 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 must not exceed the greater of \$250,000 or an amount that is equal to three times the economic loss, as determined by the trier of fact, of the plaintiff in that action

¹ R.C. 2315.18(B)(4).

² R.C. 2315.18(B)(2) and (E)(1).

to a maximum of \$350,000 for each plaintiff in the action or a maximum of \$500,000 for each occurrence that is the basis of the tort action. There cannot be any limitation if the plaintiff's noneconomic losses are for: (1) permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system, or (2) permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life-sustaining activities.³ Current law provides that, with the above exception, in no event can a judgment for compensatory damages for noneconomic loss exceed the maximum recoverable amount described above.⁴

Current law, not changed by the bill, provides that in determining an award of compensatory damages for noneconomic loss in a tort action, the trier of fact cannot consider: (1) evidence of a defendant's alleged wrongdoing, misconduct, or guilt (see **COMMENT**), (2) evidence of the defendant's wealth or financial resources, or (3) all other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.⁵

Under current law, not changed by the bill, "noneconomic loss" means nonpecuniary harm that results from an injury or loss to person or property that is a subject of a tort action, including, but not limited to, pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss.⁶

COMMENT

The provision in R.C. 2315.18(C)(1) that evidence of a defendant's wrongdoing, misconduct, or guilt cannot be considered by the trier of fact probably should be modified to provide as an exception the bill's provision in R.C. 2315.18(B)(4) in which the victim's claim in the tort action results from any of the offenses specified in that provision.

HISTORY

Action	Date
Introduced	02-19-20

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³ R.C. 2315.18(B)(2) and (3).

⁴ R.C. 2315.18(E)(1).

⁵ R.C. 2315.18(C).

⁶ R.C. 2315.18(A)(4).