



## 93RD GENERAL ASSEMBLY

### State of Illinois

2003 and 2004

HB7278

Introduced 3/18/2004, by Rep. Tom Cross

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1115.3 new

Amends the Code of Civil Procedure. Limits the recovery of non-economic damages on account of death, bodily injury, or physical damage to property based on negligence, or on account of product liability based on any theory or doctrine, to \$500,000 per plaintiff. Provides for liability limit increases and decreases based upon the percentage change in the consumer price index published by the Bureau of Labor Statistics of the United States Department of Labor. Requires that the Department of Insurance conduct a 10-year study of the effects of the liability limitation. Provides that the Department shall produce an update every 2 years and, at the end of the 10-year period, shall present a final report to the General Assembly. Effective immediately.

LRB093 21530 LCB 48714 b

1 AN ACT concerning civil procedure.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding  
5 Section 2-1115.3 as follows:

6 (735 ILCS 5/2-1115.3 new)

7 Sec. 2-1115.3. Limitations on recovery of non-economic  
8 damages.

9 (a) For purposes of this Section:

10 "Medical malpractice action" means any civil action in  
11 tort, contract, or otherwise, in which the plaintiff seeks  
12 damages for injuries or death arising out of the action or  
13 inaction of a hospital in rendering health care services to a  
14 patient inside the hospital or arising out of the action or  
15 inaction of a physician.

16 "Non-economic damages" mean subjective, non-pecuniary  
17 damages arising from death, pain, suffering, disfigurement,  
18 inconvenience, mental anguish, worry, emotional distress, loss  
19 of society and companionship, loss of consortium, physical  
20 impairment, injury to reputation, humiliation, embarrassment,  
21 loss of enjoyment of life, hedonic damages, increased risk of  
22 future injury, other non-pecuniary damages, and any other  
23 theory of damages such as fear of loss, illness, injury, or  
24 future loss.

25 (b) In all common law, statutory or other actions that seek  
26 damages on account of death, bodily injury, or physical damage  
27 to property based on negligence, or on account of product  
28 liability based on any theory or doctrine, recovery of  
29 non-economic damages shall be limited to \$500,000 per  
30 plaintiff.

31 (b-5) In any medical malpractice action where an individual  
32 plaintiff earns less than the annual average weekly wage, as

1 determined by the Industrial Commission, at the time the action  
2 is filed, any award for economic and non-economic damages must  
3 include an amount equal to this wage amount multiplied by the  
4 plaintiff's life expectancy in total weeks as if the plaintiff  
5 was earning this wage at the time of the injury that gave rise  
6 to the action.

7 (b-7) The finder of fact shall take into account and be  
8 made aware that the plaintiff's attorneys' fees in the case may  
9 not be paid out of any amounts awarded for economic or  
10 non-economic damages in the case.

11 (c) Every January 20, beginning in 2006, the liability  
12 limit established in subsection (b) shall automatically be  
13 increased or decreased, as applicable, by a percentage equal to  
14 the percentage change in the consumer price index-u during the  
15 preceding 12 month calendar year. "Consumer price index-u"  
16 means the index published by the Bureau of Labor Statistics of  
17 the United States Department of Labor that measures the average  
18 change in prices of goods and services purchased by all urban  
19 consumers, United States city average, all items, 1982-84 =  
20 100. The new amount resulting from each annual adjustment shall  
21 be determined by the Comptroller and made available to the  
22 chief judge of each judicial circuit.

23 (d) The liability limits in effect when damages subject to  
24 the limits are awarded by final judgment or settlement shall be  
25 utilized by the courts.

26 (e) The Department of Insurance shall conduct a 10-year  
27 study of the effects of the liability limitation established in  
28 subsection (b). The Department shall produce an update every 2  
29 years and, at the end of the 10-year period, shall present a  
30 final report to the General Assembly.

31 (f) Nothing in this Section shall be construed to create a  
32 right to recover non-economic damages.

33 (g) This amendatory Act of the 93rd General Assembly  
34 applies to causes of action accruing on or after its effective  
35 date.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.