

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 20

Representatives Gonzales, Boggs

**Cosponsors: Representatives Antonio, Cera, Dever, Fedor, Johnson, G., Kent,
Lepore-Hagan, Miller, Sheehy**

A BILL

To amend section 2315.18 of the Revised Code to
remove the cap on the amount of compensatory
damages that represents damages for noneconomic
loss that is recoverable in a tort action when
the tort action is brought by a victim of rape,
felonious assault, aggravated assault, assault,
or negligent assault.

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 17
subject of a tort action; 18

(b) All expenditures for medical care or treatment, 19
rehabilitation services, or other care, treatment, services, 20
products, or accommodations as a result of an injury or loss to 21
person or property that is a subject of a tort action; 22

(c) Any other expenditures incurred as a result of an 23
injury or loss to person or property that is a subject of a tort 24
action, other than attorney's fees incurred in connection with 25
that action. 26

(3) "Medical claim," "dental claim," "optometric claim," 27
and "chiropractic claim" have the same meanings as in section 28
2305.113 of the Revised Code. 29

(4) "Noneconomic loss" means nonpecuniary harm that 30
results from an injury or loss to person or property that is a 31
subject of a tort action, including, but not limited to, pain 32
and suffering, loss of society, consortium, companionship, care, 33
assistance, attention, protection, advice, guidance, counsel, 34
instruction, training, or education, disfigurement, mental 35
anguish, and any other intangible loss. 36

(5) "Occurrence" means all claims resulting from or 37
arising out of any one person's bodily injury. 38

(6) "Product liability claim" has the same meaning as in 39
section 2307.71 of the Revised Code. 40

(7) "Tort action" means a civil action for damages for 41
injury or loss to person or property. "Tort action" includes a 42
civil action upon a product liability claim or an asbestos 43
claim. "Tort action" does not include a civil action upon a 44
medical claim, dental claim, optometric claim, or chiropractic 45

claim or a civil action for damages for a breach of contract or 46
another agreement between persons. 47

(8) "Trier of fact" means the jury or, in a nonjury 48
action, the court. 49

(B) In a tort action to recover damages for injury or loss 50
to person or property, all of the following apply: 51

(1) There shall not be any limitation on the amount of 52
compensatory damages that represents the economic loss of the 53
person who is awarded the damages in the tort action. 54

(2) Except as otherwise provided in division (B) (3) or (4) 55
of this section, the amount of compensatory damages that 56
represents damages for noneconomic loss that is recoverable in a 57
tort action under this section to recover damages for injury or 58
loss to person or property shall not exceed the greater of two 59
hundred fifty thousand dollars or an amount that is equal to 60
three times the economic loss, as determined by the trier of 61
fact, of the plaintiff in that tort action to a maximum of three 62
hundred fifty thousand dollars for each plaintiff in that tort 63
action or a maximum of five hundred thousand dollars for each 64
occurrence that is the basis of that tort action. 65

(3) There shall not be any limitation on the amount of 66
compensatory damages that represents damages for noneconomic 67
loss that is recoverable in a tort action to recover damages for 68
injury or loss to person or property if the noneconomic losses 69
of the plaintiff are for either of the following: 70

(a) Permanent and substantial physical deformity, loss of 71
use of a limb, or loss of a bodily organ system; 72

(b) Permanent physical functional injury that permanently 73
prevents the injured person from being able to independently 74

care for self and perform life-sustaining activities. 75

(4) There shall not be any limitation on the amount of 76
compensatory damages that represents damages for noneconomic 77
loss that is recoverable in a tort action brought by the victim 78
of the offense of rape, felonious assault, aggravated assault, 79
assault, or negligent assault asserting any claim resulting from 80
the rape, felonious assault, aggravated assault, assault, or 81
negligent assault. 82

(C) In determining an award of compensatory damages for 83
noneconomic loss in a tort action, the trier of fact shall not 84
consider any of the following: 85

(1) Evidence of a defendant's alleged wrongdoing, 86
misconduct, or guilt; 87

(2) Evidence of the defendant's wealth or financial 88
resources; 89

(3) All other evidence that is offered for the purpose of 90
punishing the defendant, rather than offered for a compensatory 91
purpose. 92

(D) If a trial is conducted in a tort action to recover 93
damages for injury or loss to person or property and a plaintiff 94
prevails in that action, the court in a nonjury trial shall make 95
findings of fact, and the jury in a jury trial shall return a 96
general verdict accompanied by answers to interrogatories, that 97
shall specify all of the following: 98

(1) The total compensatory damages recoverable by the 99
plaintiff; 100

(2) The portion of the total compensatory damages that 101
represents damages for economic loss; 102

(3) The portion of the total compensatory damages that 103
represents damages for noneconomic loss. 104

(E) (1) After the trier of fact in a tort action to recover 105
damages for injury or loss to person or property complies with 106
division (D) of this section, the court shall enter a judgment 107
in favor of the plaintiff for compensatory damages for economic 108
loss in the amount determined pursuant to division (D) (2) of 109
this section, and, subject to division (F) (1) of this section, 110
the court shall enter a judgment in favor of the plaintiff for 111
compensatory damages for noneconomic loss. Except as provided in 112
division (B) (3) or (4) of this section, in no event shall a 113
judgment for compensatory damages for noneconomic loss exceed 114
the maximum recoverable amount that represents damages for 115
noneconomic loss as provided in division (B) (2) of this section. 116
Division (B) of this section shall be applied in a jury trial 117
only after the jury has made its factual findings and 118
determination as to the damages. 119

(2) Prior to the trial in the tort action described in 120
division (D) of this section, any party may seek summary 121
judgment with respect to the nature of the alleged injury or 122
loss to person or property, seeking a determination of the 123
damages as described in division (B) (2) of this section. 124

(F) (1) A court of common pleas has no jurisdiction to 125
enter judgment on an award of compensatory damages for 126
noneconomic loss in excess of the limits set forth in this 127
section. 128

(2) If the trier of fact is a jury, the court shall not 129
instruct the jury with respect to the limit on compensatory 130
damages for noneconomic loss described in division (B) (2) of 131
this section, and neither counsel for any party nor a witness 132

shall inform the jury or potential jurors of that limit.	133
(G) With respect to a tort action to which division (B) (2)	134
of this section applies, any excess amount of compensatory	135
damages for noneconomic loss that is greater than the applicable	136
amount specified in division (B) (2) of this section shall not be	137
reallocated to any other tortfeasor beyond the amount of	138
compensatory damages that the tortfeasor would otherwise be	139
responsible for under the laws of this state.	140
(H) This section does not apply to any of the following:	141
(1) Tort actions that are brought against the state in the	142
court of claims, including, but not limited to, those actions in	143
which a state university or college is a defendant and to which	144
division (B) (3) of section 3345.40 of the Revised Code applies;	145
(2) Tort actions that are brought against political	146
subdivisions of this state and that are commenced under or are	147
subject to Chapter 2744. of the Revised Code. Division (C) of	148
section 2744.05 of the Revised Code applies to recoverable	149
damages in those actions.	150
(3) Wrongful death actions brought pursuant to Chapter	151
2125. of the Revised Code.	152
(I) If the provisions regarding the limits on compensatory	153
damages for noneconomic loss set forth in division (B) (2) of	154
this section have been determined to be unconstitutional, then	155
division (C) of this section and section 2315.19 of the Revised	156
Code shall govern the determination of an award of compensatory	157
damages for noneconomic loss in a tort action.	158
Section 2. That existing section 2315.18 of the Revised	159
Code is hereby repealed.	160