

By: Representative Mims

To: Judiciary A

HOUSE BILL NO. 817

1 AN ACT TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972, TO
2 CAP NONECONOMIC DAMAGES IN ALL CIVIL ACTIONS; AND FOR RELATED
3 PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 11-1-60, Mississippi Code of 1972, is
6 amended as follows:

7 11-1-60. (1) For the purposes of this section, the
8 following words and phrases shall have the meanings ascribed
9 herein unless the context clearly requires otherwise:

10 (a) "Noneconomic damages" means subjective,
11 nonpecuniary damages arising from death, pain, suffering,
12 inconvenience, mental anguish, worry, emotional distress, loss of
13 society and companionship, loss of consortium, bystander injury,
14 physical impairment, disfigurement, injury to reputation,
15 humiliation, embarrassment, loss of the enjoyment of life, hedonic
16 damages, other nonpecuniary damages, and any other theory of
17 damages such as fear of loss, illness or injury. The term
18 "noneconomic damages" shall not include punitive or exemplary
19 damages.

20 (b) "Actual economic damages" means objectively
21 verifiable pecuniary damages arising from medical expenses and
22 medical care, rehabilitation services, custodial care,
23 disabilities, loss of earnings and earning capacity, loss of
24 income, burial costs, loss of use of property, costs of repair or
25 replacement of property, costs of obtaining substitute domestic
26 services, loss of employment, loss of business or employment
27 opportunities, and other objectively verifiable monetary losses.

28 (2) (a) In any cause of action filed on or after September
29 1, 2004, for injury based on malpractice or breach of standard of
30 care against a provider of health care, including institutions for
31 the aged or infirm, in the event the trier of fact finds the
32 defendant liable, they shall not award the plaintiff more than
33 Five Hundred Thousand Dollars (\$500,000.00) for noneconomic
34 damages.

35 (b) In any civil action filed on or after September 1,
36 2006, other than those actions described in paragraph (a) of this
37 subsection, in the event the trier of fact finds the defendant
38 liable, they shall not award the plaintiff more than Five Hundred
39 Thousand Dollars (\$500,000.00) for noneconomic damages.

40 It is the intent of this section to limit all noneconomic
41 damages to the above.

42 (c) The trier of fact shall not be advised of the
43 limitations imposed by this subsection (2) and the judge shall
44 appropriately reduce any award of noneconomic damages that exceeds
45 the applicable limitation.

46 (3) Nothing contained in subsection (1) of this section
47 shall be construed as creating a cause of action or as setting
48 forth elements of or types of damages that are or are not
49 recoverable in any type of cause of action.

50 **SECTION 2.** This act shall take effect and be in force from
51 and after September 1, 2006.