

By: Representatives Upshaw, Bentz,
Rotenberry, Bondurant

To: Judiciary A

HOUSE BILL NO. 1004

1 AN ACT TO AMEND SECTION 11-1-60, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE CAP ON NONECONOMIC DAMAGES; TO PROVIDE THAT THE CAP
3 SHALL APPLY TO ALL CIVIL ACTIONS; AND FOR RELATED 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, injury to reputation, humiliation,
15 embarrassment, loss of the enjoyment of life, hedonic damages,
16 other nonpecuniary damages, and any other theory of damages such
17 as fear of loss, illness or injury. The term "noneconomic
18 damages" shall not include damages for disfigurement, nor does it
19 include punitive or exemplary 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 (c) "Provider of health care" means a licensed
29 physician, psychologist, osteopath, dentist, nurse, nurse
30 practitioner, physician assistant, pharmacist, podiatrist,
31 optometrist, chiropractor, institution for the aged or infirm,
32 hospital, licensed pharmacy or any legal entity which may be
33 liable for their acts or omissions.

34 (2) (a) In any action for injury based on * * * breach of
35 standard of care * * *, in the event the trier of fact finds the
36 defendant liable, they shall not award the plaintiff more than
37 four (4) times the amount awarded for actual damages as the award
38 for noneconomic damages:

39 * * *

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

42 (b) 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) The limitation on noneconomic damages set forth in
47 subsection (2) shall not apply in cases where the judge determines
48 that a jury may impose punitive damages.

49 (4) Nothing in this section shall be construed to impose a
50 limitation on damages for disfigurement or actual economic
51 damages.

52 **SECTION 2.** This act shall take effect and be in force from
53 and after July 1, 2004.