

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 970

By: Pruitt

AS INTRODUCED

An Act relating to public health and safety; amending Section 22, Chapter 368, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-1708.1F-1), which relates to noneconomic damages; modifying amount of certain damages; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 22, Chapter 368, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-1708.1F-1), is amended to read as follows:

Section 1-1708.1F-1 A. Except as provided in subsection B or D of this section, in any medical liability action not provided for in Section 1-1708.1F of Title 63 of the Oklahoma Statutes, the amount of noneconomic damages awarded shall not exceed ~~the hard cap amount of Three Hundred Thousand Dollars (\$300,000.00)~~ one-third (1/3) of the amount awarded for economic damages, regardless of the number of actions brought with respect to the personal injury, provided:

1. The defendant has made an offer of judgment pursuant to Section 1101.1 of Title 12 of the Oklahoma Statutes; and

2. The amount of the verdict awarded to the plaintiff is less than one and one-half (1 1/2) times the amount of the final offer of judgment.

B. The dollar amount prescribed by subsection A of this section shall be adjusted annually based upon any positive increase in the Consumer Price Index that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers' families and single workers living alone (CPI-W) for the

preceding calendar year. The adjustment required by this subsection shall be made on April 1 of each year or not later than thirty (30) days after the date upon which the Bureau of Labor Statistics releases the CPI-W inflationary data for the preceding calendar year, whichever date first occurs. No adjustment to the dollar amount prescribed by this section shall be made for any year in which there is a decline in the Consumer Price Index.

C. As used in this section, "noneconomic damages" means only mental pain and suffering, inconvenience, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation; provided, however, noneconomic damages do not include exemplary damages, as provided for in Section 9.1 of Title 23 of the Oklahoma Statutes.

D. If nine or more members of the jury find by clear and convincing evidence that the defendant committed negligence or if nine or more members of the jury find by a preponderance of the evidence that the conduct of the defendant was willful or wanton, the limits on noneconomic damages provided for in subsection A of this section shall not apply; provided, however, the judge must, before submitting such determination to the jury, make a threshold determination that there is evidence from which the jury could reasonably make the findings set forth in the case.

E. If the jury returns a verdict that is greater than ~~Three Hundred Thousand Dollars (\$300,000.00)~~ one-third (1/3) of the amount awarded for economic damages and is less than one and one-half (1 1/2) times the amount of the final offer of judgment, the court shall submit to the jury an additional form of verdict. The additional form of verdict shall be substantially as follows:

"1. Do you find by a preponderance of the evidence that the conduct of the defendant was willful or wanton? If nine or more of you answer in the affirmative, then return this verdict form in open

court. If less than nine of you answer in the affirmative, then answer the following question.

2. Do you find by clear and convincing evidence that the defendant was negligent? If this question is answered affirmatively, then return this verdict form in open court. If less than nine of you find negligence by clear and convincing evidence, then answer the following question.

3. Of the amount returned in the verdict, what amount of your verdict is for economic damages and what amount is for noneconomic damages?"

F. Nothing in this section shall apply to an action brought for wrongful death.

G. The provisions of this section shall apply only to actions that accrue on or after November 1, ~~2004~~ 2005.

H. This section of law shall terminate on November 1, 2010.

SECTION 2. This act shall become effective November 1, 2005.

50-1-1259

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