

NO FISCAL IMPACT**Drafting Number:** LLS 11-0688**Date:** February 7, 2011**Prime Sponsor(s):** Sen. Morse
Rep. Barker**Bill Status:** Senate Judiciary**Fiscal Analyst:** Kirk Mlinek (303-866-4782)**TITLE:** CONCERNING THE RECOVERY OF NONECONOMIC DAMAGES IN A CIVIL ACTION
CONCERNING DAMAGES RESULTING FROM A DUI INCIDENT.**Summary of Legislation**

The bill creates an exception to the limits on noneconomic damages recoverable in a civil action for damages resulting from alcohol- or drug-related driving incidents.

Background

Current law provides for two types of noneconomic damages that may be recovered in a civil suit. "Derivative noneconomic loss or injury" is defined as nonpecuniary harm or emotional stress to persons other than the person suffering the direct or primary loss or injury. "Noneconomic loss or injury" means nonmonetary harm for which damages are recoverable by the person suffering the direct or primary loss including pain and suffering, inconvenience, emotional stress, and quality of life.

Except in cases of medical malpractice, current law limits noneconomic damages that may be recovered in a civil action to \$468,010, which may be increased by the court to a maximum of \$936,030 upon justification by clear and convincing evidence. If the bill is enacted, actions arising out of damages resulting from alcohol- or drug-related driving incidents will be subject to the higher limit.

Damages for derivative noneconomic loss or injury may be awarded only when the court finds justification by clear and convincing evidence therefor, up to a maximum of \$468,010. If the bill is enacted this restriction will not apply.

As adopted in 1986, the law established a limit of \$250,000 for noneconomic damages, which could be increased to \$500,000 by the court upon justification by clear and convincing evidence. The original limit for derivative loss was \$250,000. The law also required that the aforementioned limits be inflation adjusted by the Secretary of State on January 1, 1998, and January 1, 2008. As certified by the Secretary of State on February 25, 2008, the current limits for noneconomic damages are \$468,010 and \$936,030, and the limit for derivative loss or injury is \$468,010.

Assessment

Removing the limit on noneconomic damages for alcohol- or drug-related cases may increase the number of cases filed with the Judicial Branch. But, since such cases are rare, the potential increase will not measurably impact the courts' workload. As such, the bill is deemed as having no fiscal impact.

Departments Contacted

Judicial Law