

SB 462 - VERSION ADOPTED BY BOTH BODIES

04/05/2024 1112s

2024 SESSION

24-3015

09/08

SENATE BILL

462

AN ACT

relative to raising the cap on damages for wrongful death loss of consortium claims.

SPONSORS:

Sen. Carson, Dist 14; Sen. Birdsell, Dist 19; Sen. Abbas, Dist 22; Sen. Soucy, Dist 18; Rep. Kuttab, Rock. 17

COMMITTEE:

Judiciary

AMENDED ANALYSIS

This bill raises the cap on damages for wrongful death loss of consortium claims.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to raising the cap on damages for wrongful death loss of consortium claims.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Probate Courts and Decedents' Estates; Suits by and Against Administrators; Damages for
2 Wrongful Death, Elements. Amend RSA 556:12 to read as follows:

3 556:12 Damages for Wrongful Death, Elements.

4 I. If the administrator of the deceased party is plaintiff, and the death of such party was
5 caused by the injury complained of in the action, the mental and physical pain suffered by the
6 deceased in consequence of the injury, the reasonable expenses occasioned to the estate by the
7 injury, the probable duration of life but for the injury, and the capacity to earn money during the
8 deceased party's probable working life, may be considered as elements of damage in connection with
9 other elements allowed by law, in the same manner as if the deceased had survived.

10 II. In addition, the trier of fact may award damages to a surviving spouse of the decedent for
11 the loss of the comfort, society, and companionship of the deceased; however, where fault on the part
12 of the decedent or the surviving spouse is found to have caused, in whole or in part, the loss
13 complained of, damages recoverable shall be subject to diminution to the extent and in the manner
14 provided for in RSA 507:7-d. In no event shall damages awarded under this paragraph exceed
15 [~~\$150,000~~] **\$500,000**.

16 III. In addition, where the decedent is a parent of a minor child or children, the trier of fact
17 may award damages to such child or children for the loss of familial relationship, whether caused
18 intentionally or by negligent interference; where the decedent is a minor child with a surviving
19 parent or parents, the trier of fact may award damages to such parent or parents for the loss of
20 familial relationship, whether caused intentionally or by negligent interference. However, where
21 fault on the part of the decedent or the claimant is found to have caused, in whole or in part, the loss
22 complained of, damages recoverable shall be subject to diminution to the extent and in the manner
23 provided for in RSA 507:7-d. For purposes of this paragraph, loss of familial relationship shall
24 include the loss of the comfort, society, affection, guidance, and companionship of the deceased. In
25 no event shall damages awarded under this paragraph exceed [~~\$50,000~~] **\$300,000** per individual
26 claimant.

27 2 Effective Date. This act shall take effect January 1, 2025.

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LBA
24-3015
4/18/24

SB 462- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENT #2024-1112s)

AN ACT relative to raising the cap on damages for wrongful death loss of consortium claims.

FISCAL IMPACT: ☒ State ☒ County ☒ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Revenue Fund(s)</i>	General Fund Insurance Premium Tax			
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund and Various Agency Funds			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ N/A
- Does this bill authorize new positions to implement this bill? ☒ No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill raises the cap on damages for wrongful death loss of consortium claims. The Insurance Department indicates this bill, as amended by the Senate, would potentially impact any individual or business entity (profit or non-profit) that could be liable for a negligent act that results in the death of another. The bill would also likely impact related insurance that provides liability coverage. The primary lines of insurance likely to be impacted are commercial general liability, professional liability including medical malpractice and commercial automobile. Other lines of insurance may also be impacted including, but are not limited to, homeowners insurance.

There would be no fiscal impact to the operations of the Insurance Department as a result of this amendment. The change would likely have economic impacts to insurance markets and put upward pressure on premiums. This pressure would increase premium tax revenue by an indeterminable amount.

Any increased in litigation costs would have a direct impact on premiums across multiple industries. To the extent that state, county or local governments purchase commercial general liability, professional liability including medical malpractice or commercial automobile insurance there may be an increase in state, county and local expenditures.

AGENCIES CONTACTED:

Insurance Department