



**Colorado  
Legislative  
Council  
Staff**

**HB17-1254**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated March 24, 2017)

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-1000  
**Prime Sponsor(s):** Rep. Becker K.  
Sen. Kagan

**Date:** March 28, 2017  
**Bill Status:** House SVMA  
**Fiscal Analyst:** Chris Creighton (303-866-5834)

**BILL TOPIC:** NONECONOMIC DAMAGES CAP WRONGFUL DEATH OF CHILD

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
<b>State Revenue</b>		
<b>State Expenditures</b> Cash Funds	Potential workload and cost increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing potential cost and workload increase.		

**Note:** This fiscal note has been revised to make a technical correction.

**Summary of Legislation**

This bill removes the cap on damages for noneconomic loss or injury that may be awarded in an action for the wrongful death of a minor child and clarifies that the definition of a minor child applies to a person who has not yet reached the age of 21.

**Background**

Noneconomic loss or injury means nonmonetary harm for which damages are recoverable by the person suffering the direct loss or injury including grief, pain and suffering, loss of companionship, and emotional stress.

Under current law, in any wrongful death civil action occurring other than medical malpractice in which damages for noneconomic loss may be awarded, the cap on the award is \$250,000, adjusted for inflation. This limit was last adjusted for inflation in 2008 and the current cap is \$436,070. Under the Governmental Immunity Act, for state agencies and local governments involved in such an action the cap is \$350,000 per person and \$990,000 per incident. This cap will be adjusted for inflation on July 1, 2018.

**State Expenditures**

Beginning in FY 2017-18, this bill potentially increases workload and costs as described below.

**Judicial Department.** Beginning in FY 2017-18, this bill may increase trial court workload in the Judicial Department. To the extent that the removal of the noneconomic cap provides an incentive to go to trial instead of settling out of court, trial court workload will increase. This is expected to only occur in a limited number of cases. As a result, any increase in workload resulting from this bill is expected to be minimal and can be accomplished within existing appropriations.

**Risk management.** By removing the cap on noneconomic damages in actions for the wrongful death of a minor child, this bill may increase risk management costs in the Department of Personnel and Administration beginning in FY 2017-18. Should a wrongful death case occur involving a state agency, costs would increase for legal services and the payment of damages. These costs are paid from the Risk Management Fund which is comprised of reappropriated funds from other state agencies and is based on actuarial analysis of each agency's historical liability losses. Any change in appropriations resulting from this bill will be addressed through the annual budget process at a future date.

## Local Government Impact

Similar to the state, the elimination of the cap on noneconomic damages in an action for the wrongful death of a minor child potentially increases local government risk management costs for the payment of damages. To the extent that eliminating this cap causes more cases to proceed to trial, this bill will also increase local government legal services costs.

## Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed. It applies to acts or omissions arising on or after this effective date.

## State and Local Government Contacts

Corrections	District Attorneys
Human Resources	Information Technology
Judicial	Law
Office of Respondent Parents' Counsel	Office of the Child Protection Ombudsman
Office of the Child's Representative	Public Defender