

Colorado Increases Damages Caps in Personal Injury and Wrongful Death Actions

Article By:

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On June 3, 2024, Colorado [House Bill 24-1472](#) was approved by Colorado Governor Jared Polis (D). The bill increases the cap on noneconomic damages, wrongful death damages and medical malpractice damages. The new law also allows siblings of the deceased to bring a wrongful death action under certain circumstances.¹

Colorado's statutory damages caps were previously increased effective January 1, 2020, when Governor Polis signed Senate Bill 19-109 into law to account for inflation after caps were last adjusted in 2008.

The new cap amounts for suits filed on or after January 1, 2025, are as follows:

- For Noneconomic Loss or Injury: \$1,500,000. See C.R.S., § 13-21-102.5(3)(a)(II) (This is an increase from the previous cap of \$729,790 and \$1,459,600.)
- For Noneconomic Loss in Wrongful Death Actions: \$2,125,000. See C.R.S., § 13-21-203(1)(a). (This is an increase from the previous cap of \$679,990.) There is *no cap* if the wrongful act that caused the death constitutes a felonious killing as defined under Colorado statute. See C.R.S., §§ 15-11-803(1)(b)) and 15-11-803(7).
- For Noneconomic Loss in Medical Malpractice Wrongful Death Actions: The bill incrementally increases the cap to \$1,575,000 over the next five years.² Thereafter, the cap will be adjusted every two years for inflation. See C.R.S., § 13-21-203(1)(b)(1)-(VI). (This is an increase from the previous cap of \$300,000.)
- For Noneconomic Loss in Medical Malpractice Actions: The bill incrementally increases the cap to \$875,000 over the next five years.³ Thereafter, the cap will be adjusted every two years for inflation. (This is an increase from the previous cap of \$300,000.)

Another important provision in the new law is that it requires the damages caps to be adjusted for inflation every two years beginning January 1, 2028. This means that on January 1, 2028, and every two years thereafter, Colorado's damages caps will increase again.

While the new law increases damages caps, it also removes the risk of a ballot measure seeking to eliminate all caps.

In addition, the potential for plaintiffs to ask the court to double the cap upon “clear and convincing evidence” has been eliminated.

Perhaps one of the most significant changes to Colorado law by enactment of House Bill 24-1472 is that the new cap of \$1,500,000 will apply to all suits that are filed on or after January 1, 2025. The caps are no longer tied to the date the claim accrued, i.e., the date of the loss or accident. If a claimant files suit on or after January 1, 2025, the new cap will apply instead of the previous cap, which was based on the date of loss. Thus, it will be important to ensure claims professionals understand the nuances of the new law and how it may apply to a particular claim in evaluating exposure for any particular loss.

We anticipate the enactment of this law will result in a significant decrease in the filing of new suits through the end of 2024, and an uptick in the number of new suits filed on or after January 1, 2025. Unless up against a statute of limitations, claimants will likely wait to file suit to take advantage of the new caps. Similarly, it is possible this bill will have an effect on claimants’ willingness to resolve cases pre-suit (or perhaps, increase the amount of their settlement demands) given the significant increase in the caps.

Footnotes

¹ The Act allows a sibling to bring an action if at the time of death there is no spouse, heir(s), or designated beneficiaries, or if the deceased was an unmarried minor or unmarried adult without descendants, *and* there is no mother and no father of the deceased. See C.R.S., § 13-21-201(1)(a)(V).

² The cap increases to \$555,000 effective January 1, 2025; \$810,000 effective January 1, 2026; \$1,065,000 effective January 1, 2027; \$1,320,000 effective January 1, 2028; and \$1,575,000 effective January 1, 2029.

³ The cap increases to \$415,000 effective January 1, 2025; \$530,000 effective January 1, 2026; \$645,000 effective January 1, 2027; \$760,000 effective January 1, 2028; and \$875,000 effective January 1, 2029.

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