

SS SB 239 -- STATUTORY CAUSE OF ACTION AGAINST HEALTH CARE PROVIDERS

Currently, Missouri follows the common law of England as of 1607, unless the General Assembly abrogates from the common law statutorily. This bill excludes from the English common law claims arising out of the rendering of or failure to render health care services by a health care provider.

The bill creates a statutory cause of action for damages against a health care provider for personal injury or death arising out of the rendering of or failure to render health care services. Currently, in any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, a plaintiff cannot recover more than \$350,000 for noneconomic damages. The bill specifies that in any action against a health care provider for damages, a plaintiff must not recover more than \$400,000 for noneconomic damages for personal injury; no more than \$700,000 for noneconomic damages for a catastrophic personal injury, as defined in the bill; and no more than \$700,000 for noneconomic damages for death. These limitations must increase by 1.7% on an annual basis effective January 1 of each year, and the value of the limitation must be calculated by the Director of the Department of Insurance, Financial Institutions and Professional Registration who must furnish the value to the Secretary of State who must publish the value in the Missouri Register. When a jury does return a verdict awarding noneconomic damages exceeding \$400,000, and upon a post-trial motion, the trial court must determine whether the limitation as provided in the bill must apply based on the severity of the most severe injuries.

If a court declares any provision or part of the bill unconstitutional, the bill and the provisions it amends in their entirety must be invalid and have no legal effect as of the date of the judgment.