

House Concurrent Resolution No. 5036

By Committee on Judiciary

3-11

9 A PROPOSITION to amend article 2 of the constitution of the state of
10 Kansas by adding a new section thereto, affirming the legislature's
11 authority to limit the amount of recovery for noneconomic damages
12 in any claim for personal injury.
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14 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
15 *members elected (or appointed) and qualified to the House of Repre-*
16 *sentatives and two-thirds of the members elected (or appointed) and*
17 *qualified to the Senate concurring therein:*

18 Section 1. The following proposition to amend the constitution of the
19 state of Kansas shall be submitted to the qualified electors of the state
20 for their approval or rejection: Article 2 of the constitution of the state of
21 Kansas is amended by adding a new section thereto to read as follows:

22 “§ 31. **Limitation on noneconomic damages** (a) The legis-
23 lature may enact laws limiting the amount of noneconomic damages
24 awarded for any claim for personal injury. No provision of this con-
25 stitution shall limit the powers of the legislature herein conferred,
26 including the power of the legislature to specify circumstances in
27 which such limitations would not apply.

28 (b) Noneconomic damages, including damages for pain and suf-
29 fering, are losses for which there is no unit value, mathematical
30 formula or rule of calculation and include, but shall not be limited
31 to, mental anguish, disability, disfigurement, inconvenience, hu-
32 miliation, loss of capacity to enjoy life, bereavement, loss of society,
33 loss of companionship, loss of reputation and all other losses which
34 are intangible in nature.”

35 Sec. 2. The following statement shall be printed on the ballot with
36 the amendment as a whole:

37 “*Explanatory statement.* This amendment would allow the legisla-
38 ture to limit awards for pain and suffering, or noneconomic dam-
39 ages, that a person could recover in a personal injury action. The
40 amendment also allows the legislature to specify circumstances
41 in which the limitations would not apply, for example when the
42 conduct of the party causing the injury was due to criminal acts,
43 or negligence due to substance abuse or impairment. Nothing in

1 this amendment would affect awards or recovery of actual eco-
2 nomic losses, such as lost wages, past or future medical bills,
3 rehabilitation and long term care costs, nor would this amend-
4 ment affect awards for punitive damages in any way.”
5 “Noneconomic damages” are commonly referred to as pain and
6 suffering, but also can include mental anguish, disability, disfig-
7 urement, inconvenience, humiliation, loss of capacity to enjoy
8 life, bereavement, loss of society, loss of companionship, loss of
9 reputation, loss of consortium, and other losses for which there
10 is no unit value, mathematical formula or known rule for calcu-
11 lation. A “personal injury” includes all actionable injuries to an
12 individual as distinguished from injuries to the individual’s prop-
13 erty, and includes bodily and emotional injuries as well as injuries
14 to reputation and character.
15 “A vote for this amendment would affirm the authority of the leg-
16 islature to limit the amount of noneconomic damages a person
17 could recover in any claim for personal injury.
18 “A vote against this amendment would leave the legislature without
19 the express authority to adopt limits on awards for noneconomic
20 damages in personal injury claims.”
21 Sec. 3. This resolution, if approved by two-thirds of the members
22 elected (or appointed) and qualified to the House of Representatives, and
23 two-thirds of the members elected (or appointed) and qualified to the
24 Senate shall be entered on the journals, together with the yeas and nays.
25 The secretary of state shall cause this resolution to be published as pro-
26 vided by law and shall cause the proposed amendment to be submitted
27 to the electors of the state at the general election in November in the
28 year 2010 unless a special election is called at a sooner date by concurrent
29 resolution of the legislature, in which case it shall be submitted to the
30 electors of the state at the special election.