

Senate Bill 68

By: Senators Kennedy of the 18th, Gooch of the 51st, Robertson of the 29th, Anavitarte of the 31st, Walker III of the 20th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 9, 13, 40, and 51 of the Official Code of Georgia Annotated, relating to civil  
2 practice, contracts, motor vehicles, and torts, respectively, so as to provide for substantive  
3 and comprehensive revision of provisions regarding civil practice, evidentiary matters,  
4 damages, and liability in tort actions; to provide limitations relative to pain and suffering  
5 testimony; to provide for timing of answers and discovery; to provide for dismissals of civil  
6 actions; to provide for attorney's fees, court costs, and litigation expenses; to provide for  
7 admissibility of evidence related to seat safety belts; to provide for trial procedures; to  
8 provide for a negligent security cause of action; to provide for exclusive remedies for  
9 negligent security actions; to provide for apportionment of damages in negligent security  
10 actions; to provide for limitations relative to special damages; to provide for definitions; to  
11 provide for related matters; to provide for an effective date and applicability; to repeal  
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14

**SECTION 1.**

15 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by  
16 revising Code Section 9-10-184, relating to value of pain and suffering may be argued, as  
17 follows:

18 "9-10-184.

19 (a) As used in this Code section, the term:

20 (1) 'Economic damages' means pecuniary damages recoverable in tort for bodily injury  
21 or wrongful death, including, but not limited to, damages for past and future medical  
22 expenses; costs of rehabilitation; costs of therapy; loss of wages; loss of income; loss of  
23 earning capacity; loss of services performed by the injured or deceased person as a result  
24 of the injury or death, including domestic and other necessary services performed without  
25 compensation; and funeral or burial expenses.

26 (2) 'Noneconomic damages' means all damages recoverable in tort for bodily injury or  
27 wrongful death other than economic damages, including, but not limited to, damages for  
28 physical or emotional pain, discomfort, anxiety, hardship, distress, suffering,  
29 inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment  
30 of life, loss of society and companionship, loss of consortium, injury to reputation, and  
31 in wrongful death cases, the nonpecuniary elements of the full value of life.

32 (b) In the trial of any action to recover damages for bodily injury or wrongful death,  
33 counsel shall not argue the worth or monetary value of noneconomic damages, and counsel  
34 shall not, in the hearing of the jury or any prospective juror, elicit any testimony regarding,  
35 or make any reference to, any specific amount or range of amounts of noneconomic  
36 damages, the measure of such damages being the enlightened conscience of an impartial  
37 jury.

38 (c) If counsel elicits any testimony, or makes any argument or reference, prohibited by  
39 subsection (b) of this Code section in the hearing of the jury or one or more prospective  
40 jurors, the court shall take remedial measures as provided in Code Section 9-10-185 or

41 ~~shall, with respect to prospective jurors, excuse the prospective jurors. In the trial of a civil~~  
 42 ~~action for personal injuries, counsel shall be allowed to argue the worth or monetary value~~  
 43 ~~of pain and suffering to the jury, provided, however, that any such argument shall conform~~  
 44 ~~to the evidence or reasonable deductions from the evidence in the case."~~

45 **SECTION 2.**

46 Said title is further amended in Code Section 9-11-12, relating to answer, defenses, and  
 47 objections, when and how presented and heard, when defenses waived, and stay of discovery,  
 48 by revising subsections (a), (e), and (j) as follows:

49 **"(a) When answer presented.**

50 (1) Except as provided in paragraph (2) of this subsection, a ~~A~~ defendant shall serve his  
 51 an answer within 30 days after the service of the summons and complaint upon ~~him~~ the  
 52 defendant, unless otherwise provided by statute. A cross-claim or counterclaim shall not  
 53 require an answer, unless one is required by order of the court, and shall automatically  
 54 stand denied.

55 (2) Unless the court sets a different time, serving a motion under this Code section alters  
 56 the time for serving an answer pursuant to paragraph (1) of this subsection as follows:

57 (A) If the court denies the motion or postpones its disposition until trial, the answer  
 58 shall be served within 15 days after notice of the court's action; or

59 (B) If the court grants a motion for a more definite statement, the answer shall be  
 60 served within 15 days after the more definite statement is served."

61 **"(e) Motion for more definite statement.** If a pleading to which a responsive pleading  
 62 is permitted is so vague or ambiguous that a party cannot reasonably be required to frame  
 63 a proper responsive pleading, ~~he shall nevertheless answer or respond to the best of his~~  
 64 ~~ability, and he~~ such party may move for a more definite statement. The motion shall point  
 65 out the defects complained of and the details desired. If the motion is granted and the order  
 66 of the court is not obeyed within 15 days after notice of the order, or within such other time

67 as the court may fix, the court may strike the pleading to which the motion was directed or  
68 make such order as it deems just."

69 "(j) **Stay of discovery.**

70 (1) If a party files a motion to dismiss before or at the time of filing an answer and  
71 pursuant to the provisions of this Code section, discovery shall be stayed for 90 days after  
72 ~~the filing of such motion or~~ until the ruling of the court on such motion, ~~whichever is~~  
73 ~~sooner~~. The court shall decide the motion to dismiss within ~~the~~ 90 days ~~provided in this~~  
74 ~~paragraph~~.

75 (2) The discovery period and all discovery deadlines shall be extended for a period equal  
76 to the duration of the stay imposed by this subsection.

77 (3) If the court has not ruled on the motion to dismiss within 90 days, the ~~The~~ court may  
78 ~~upon its own motion or~~ upon motion of a party, and for good cause shown, terminate or  
79 modify the stay imposed by this subsection ~~but shall not extend such stay~~.

80 (4) If a motion to dismiss raises defenses set forth in paragraph (2), (3), (5), or (7) of  
81 subsection (b) of this Code section or if any party needs discovery in order to identify  
82 persons who may be joined as parties, limited discovery needed to respond to such  
83 defenses or identify such persons shall be permitted until the court rules on such motion.

84 (5) The provisions of this subsection shall not modify or affect the provisions of  
85 paragraph (2) of subsection (f) of Code Section 9-11-23 or any other power of the court  
86 to stay discovery."

87 **SECTION 3.**

88 Said title is further amended in Code Section 9-11-41, relating to dismissal of actions and  
89 recommencement within six months, by revising subsection (a) as follows:

90 "(a) **Voluntary dismissal; effect.**

91 (1) **By plaintiff; by stipulation.** Subject to the provisions of subsection (e) of Code  
 92 Section 9-11-23, Code Section 9-11-66, and any statute, an action may be dismissed by  
 93 the plaintiff, without order or permission of court:

94 (A) By filing a written notice of dismissal at any time before ~~the first witness is sworn~~  
 95 the opposing party serves either an answer or a motion for summary judgment,  
 96 whichever occurs first; or

97 (B) By filing a stipulation of dismissal signed by all parties who have appeared in the  
 98 action.

99 (2) Effect. A dismissal under paragraph (1) of this subsection is without prejudice,  
 100 except that if the plaintiff previously dismissed any federal or state court action based on  
 101 or including the same claim, such notice or stipulation operates as an adjudication upon  
 102 the merits.

103 ~~(2)~~**(3) By order of court.** Except as provided in paragraph (1) of this subsection, an  
 104 action shall not be dismissed upon the plaintiff's motion except upon order of the court  
 105 and upon the terms and conditions as the court deems proper. If a counterclaim has been  
 106 pleaded by a defendant prior to the service upon him or her of the plaintiff's motion to  
 107 dismiss, the action shall not be dismissed against the defendant's objection unless the  
 108 counterclaim can remain pending for independent adjudication by the court. Unless the  
 109 court order states otherwise, a dismissal under this paragraph is without prejudice.

110 ~~(3) Effect.~~ A dismissal under this subsection is without prejudice, ~~except that the filing~~  
 111 ~~of a second notice of dismissal operates as an adjudication upon the merits."~~

112 **SECTION 4.**

113 Said title is further amended in Chapter 15, relating to court and litigation costs, by adding  
 114 a new Code section to read as follows:

115 "9-15-16.

116 (a) In any civil action, no party shall recover the same attorney's fees, court costs, or  
117 expenses of litigation more than once pursuant to one or more statutes authorizing awards  
118 of attorney's fees, court costs, or expenses of litigation, whether such statute or statutes  
119 authorize such awards for compensatory or punitive purposes, unless the statute or statutes  
120 specifically authorize the recovery of duplicate attorney's fees, court costs, or expenses of  
121 litigation.

122 (b) In any civil action, if a party seeks to recover attorney's fees pursuant to any statute  
123 authorizing an award of reasonable attorney's fees, a contingent fee agreement between  
124 such party and such party's attorney shall not be admissible as proof of the reasonableness  
125 of the fees.

126 (c) Nothing in this Code section shall limit or diminish any contractual right to recover  
127 attorney's fees, court costs, or expenses of litigation."

128

#### SECTION 5.

129 Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended by  
130 revising Code Section 13-6-11, relating to recovery of expenses of litigation generally, as  
131 follows:

132 "13-6-11.

133 In actions for breach of contract, the ~~The~~ expenses of litigation generally shall not be  
134 allowed as a part of the damages; but where the plaintiff has specially pleaded and has  
135 made prayer therefor and where the defendant has acted in bad faith, has been stubbornly  
136 litigious, or has caused the plaintiff unnecessary trouble and expense, the jury may allow  
137 them."

138

**SECTION 6.**

139 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended  
140 in Code Section 40-8-76.1, relating to use of safety belts in passenger vehicles, by revising  
141 subsection (d) as follows:

142 "(d)(1) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat  
143 of a motor vehicle which has a seat safety belt or belts shall not be considered evidence  
144 of negligence or causation, shall not otherwise be considered by the finder of fact on any  
145 question of liability of any person, corporation, or insurer, shall not be any basis for  
146 cancellation of coverage or increase in insurance rates, and shall not may be considered  
147 in any civil action as evidence admissible on the issues of negligence, comparative  
148 negligence, causation, assumption of risk, or apportionment of fault or for any other  
149 purpose and may be evidence used to diminish any recovery for damages arising out of  
150 the ownership, maintenance, occupancy, or operation of a motor vehicle.

151 (2) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of  
152 a motor vehicle which has a seat safety belt or belts shall not be any basis for a  
153 cancellation of insurance coverage or an increase in insurance rate."

154

**SECTION 7.**

155 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended in Chapter 3,  
156 relating to liability of owners and occupiers of land, by adding a new article to read as  
157 follows:

158

**ARTICLE 5**159 51-3-50.160 As used in this article, the term:

161 (1) 'Negligent security' means any claim against an owner or occupier, or against a  
162 security contractor, that:

163 (A) Sounds in tort or nuisance, including, but not limited to, any claim under Article 1  
164 of this chapter;

165 (B) Seeks to recover damages for bodily injury or wrongful death; and

166 (C) Arises from an alleged failure to keep persons on or around any premises safe from  
167 the wrongful conduct of any third person.

168 (2) 'Owner or occupier' means any person that owns, leases, occupies, operates,  
169 maintains, or manages real property of any kind or any director, officer, employee, or  
170 agent of such person.

171 (3) 'Particularized warning of imminent wrongful conduct by a third person' means  
172 information actually known to an owner or occupier and deemed credible by the owner  
173 or occupier, which causes the owner or occupier to consciously understand that a third  
174 person is likely to imminently engage in wrongful conduct on the premises that poses a  
175 clear danger to the safety of persons upon the premises, such information being specific  
176 as to the identity of the third person, the nature and character of the wrongful conduct, the  
177 degree of dangerousness of the wrongful conduct, and the location, time, and  
178 circumstances of the wrongful conduct.

179 (4) 'Premises' means the real property that is owned, leased, occupied, operated,  
180 maintained, or managed by an owner or occupier.

181 (5) 'Prior occurrences of substantially similar wrongful conduct' means prior occurrences  
182 of wrongful conduct which are sufficiently similar in nature and character, degree of  
183 dangerousness, proximity, location, time, and circumstances to the wrongful conduct  
184 from which a claim of negligent security arises to lead a reasonable person in the position  
185 of the owner or occupier to apprehend that such wrongful conduct is reasonably likely to  
186 occur upon the premises, to understand the risk of injury to persons upon the premises  
187 presented by such wrongful conduct, and to understand that a specific and known

188 physical condition of the premises has created a risk of such wrongful conduct on the  
189 premises that is substantially greater than the general risk of such wrongful conduct in the  
190 vicinity of the premises.

191 (6) 'Security contractor' means any person that contracts with an owner or occupier to  
192 provide protective or security services upon any premises and any director, officer,  
193 employee, or agent of such person.

194 (7) 'Third person' means any person other than an owner or occupier or a security  
195 contractor.

196 (8) 'Wrongful conduct' means:

197 (A) Any violation of a law of this state or an ordinance of any political subdivision  
198 thereof that is punishable as a felony or misdemeanor, regardless of whether such  
199 violation results in an arrest, citation, accusation, indictment, or conviction; or

200 (B) Any other conduct that amounts to an intentional, or willful and wanton, tort.

201 51-3-51.

202 Except as provided in Code Section 51-3-54, an owner or occupier shall be liable for  
203 negligent security arising from any injury sustained by any person upon the premises of the  
204 owner or occupier as an invitee if the plaintiff proves that:

205 (1) The wrongful conduct by a third person that caused the injury sustained by the invitee  
206 was reasonably foreseeable because the owner or occupier:

207 (A) Had particularized warning of imminent wrongful conduct by a third person; or

208 (B) By clear and convincing evidence, reasonably should have known that a third  
209 person was reasonably likely to engage in such wrongful conduct upon the premises,  
210 based on:

211 (i) Prior occurrences of substantially similar wrongful conduct upon the premises of  
212 which the owner or occupier knew;

213 (ii) Prior occurrences of substantially similar wrongful conduct upon the property  
214 adjoining the premises, or otherwise occurring within 500 yards of the premises, of  
215 which the owner or occupier know; or

216 (iii) Prior occurrences of substantially similar wrongful conduct by the third person  
217 whose wrongful conduct caused the injury, if the owner or occupier knew such third  
218 person was or would be upon the premises and knew of such prior occurrences of  
219 substantially similar wrongful conduct;

220 (2) The injury sustained by the invitee was a reasonably foreseeable consequence of such  
221 wrongful conduct by a third person;

222 (3) Such wrongful conduct by a third person was a reasonably foreseeable consequence  
223 of such third person exploiting a specific physical condition of the premises known to the  
224 owner or occupier, which created a reasonably foreseeable risk of wrongful conduct on  
225 the premises that was substantially greater than the general risk of wrongful conduct in  
226 the vicinity of the premises;

227 (4) The owner or occupier failed to exercise ordinary care to remedy or mitigate such  
228 specific and known physical condition of the premises and to otherwise keep the premises  
229 safe from such wrongful conduct by a third person; and

230 (5) Such failure of the owner or occupier to exercise ordinary care was a proximate cause  
231 of the injury sustained by the invitee.

232 51-3-52.

233 Except as provided in Code Section 51-3-54, an owner or occupier shall be liable for  
234 negligent security arising from any injury sustained by any person upon the premises of the  
235 owner or occupier as a licensee if the plaintiff proves that:

236 (1) The wrongful conduct by a third person that caused the injury sustained by the  
237 licensee was reasonably foreseeable because the owner or occupier had particularized  
238 warning of imminent wrongful conduct by a third person;

239 (2) The injury sustained by the licensee was a reasonably foreseeable consequence of  
240 such wrongful conduct by a third person;

241 (3) Such wrongful conduct by a third person was a reasonably foreseeable consequence  
242 of such third person exploiting a specific physical condition of the premises known to the  
243 owner or occupier, which created a reasonably foreseeable risk of wrongful conduct on  
244 the premises that was substantially greater than the general risk of wrongful conduct in  
245 the vicinity of the premises;

246 (4) The owner or occupier willfully and wantonly failed to exercise any care to remedy  
247 or mitigate the specific and known physical condition of the premises and to otherwise  
248 keep the premises safe from such wrongful conduct by a third person; and

249 (5) Such failure of the owner or occupier to exercise any care was a proximate cause of  
250 the injury sustained by the licensee.

251 51-3-53.

252 (a) The provisions of this article shall be the sole and exclusive remedy for negligent  
253 security against owners or occupiers, and no owner or occupier shall be liable for negligent  
254 security except as provided in this article.

255 (b) Nothing in this article shall limit or otherwise affect any claim or remedy for breach  
256 of contract.

257 51-3-54.

258 Notwithstanding Code Sections 51-3-51 and 51-3-52, no owner or occupier shall be liable  
259 for negligent security:

260 (1) Arising from an injury sustained by a person upon the premises of the owner or  
261 occupier as a trespasser;

262 (2) Arising from an injury sustained by a person not upon the premises of the owner or  
263 occupier;

264 (3) Arising from the wrongful conduct of a third person, if such wrongful conduct did  
265 not occur upon the premises and in a place from which the owner or occupier had the  
266 legal right and authority to exclude such third person;

267 (4) Arising from the wrongful conduct of a third person, if such third person was upon  
268 the premises as a tenant or as a guest of a tenant, if the owner or occupier had  
269 commenced eviction proceedings against such tenant at the time of the wrongful conduct;

270 (5) Arising from an injury sustained by a third person upon the premises of the owner  
271 or occupier as an invitee or a licensee, if such person:

272 (A) Came upon the premises for the purpose of committing any violation of a law of  
273 this state that is punishable as a felony or any violation of Chapter 8 of Title 16 that is  
274 punishable as a misdemeanor; or

275 (B) Was engaged at the time of the injury in the commission of any violation of a law  
276 of this state that is punishable as a felony or any violation of Chapter 8 of Title 16 that  
277 is punishable as a misdemeanor, provided that this subparagraph shall not apply to a  
278 victim of a violation of Code Section 16-5-46;

279 (6) Arising from an injury sustained upon premises that is used as a single-family  
280 residence; or

281 (7) Based on a particularized warning of imminent wrongful conduct by a third person,  
282 if the owner or occupier made any reasonable effort to provide such information to law  
283 enforcement personnel, provided that calling 9-1-1 or otherwise making a report about  
284 such information to law enforcement personnel shall be deemed a reasonable effort.

285 51-3-55.

286 (a) No owner or occupier shall be required to exercise extraordinary care to keep persons  
287 on or around any premises safe from wrongful conduct by a third person, and no owner or  
288 occupier shall be required to assume the responsibilities and obligations of government for  
289 law enforcement and public safety.

290 (b) In any action for negligent security, in assessing whether an owner or occupier has  
291 breached a duty to exercise ordinary care to keep persons on or around any premises safe  
292 from wrongful conduct by a third person, the trier of fact shall consider the security  
293 measures employed by the owner or occupier at the time of the injury from which the claim  
294 of negligent security arises, the need for additional or other security measures, the  
295 practicality of additional or other security measures, whether additional or other security  
296 measures would have prevented the injury, the respective responsibilities of owners or  
297 occupiers with respect to the premises and government with respect to law enforcement and  
298 public safety, and any other relevant circumstances.

299 51-3-56.

300 In any action for negligent security:

301 (1) If the trier of fact finds that any defendant is liable to the plaintiff, the trier of fact  
302 shall make an apportionment of fault under Code Section 51-12-33, and in making such  
303 an apportionment, the trier of fact shall reasonably apportion fault to:

304 (A) The owner or occupier;

305 (B) Any third person whose wrongful conduct was a cause of the injury from which  
306 the claim of negligent security arises; and

307 (C) Any other persons to whom fault otherwise should be apportioned under Code  
308 Section 51-12-33;

309 (2) In connection with an apportionment of fault under Code Section 51-12-33, no party  
310 shall offer evidence, or make an argument or other comment in the hearing of any juror  
311 or prospective juror, concerning:

312 (A) Any sentence of imprisonment or probation, fine, or other punishment that has  
313 been, or could be, imposed in a criminal prosecution of any third person for the  
314 wrongful conduct from which the claim of negligent security arises;

315 (B) The financial resources of any party or nonparty; or

316 (C) The effect of an apportionment of fault upon any award of damages to the plaintiff;  
317 and

318 (3) If a jury fails as the trier of fact to apportion a reasonable degree of fault to the third  
319 person whose wrongful conduct was a cause of the injury from which the claim of  
320 negligent security arises, the trial court shall set aside the verdict of the jury and order a  
321 retrial of liability and damages. There shall be a rebuttable presumption that an  
322 apportionment of fault is unreasonable if the total percentage of fault apportioned to all  
323 third persons for their wrongful conduct is less than the total percentage of fault  
324 apportioned to all owners or occupiers, security contractors, and other persons and  
325 entities that did not engage in wrongful conduct.

326 51-3-57.

327 (a) If a security contractor assumes and undertakes a duty to invitees and licensees to keep  
328 all or part of a premises of an owner or occupier safe from the wrongful conduct of a third  
329 person, the security contractor may be liable for negligent security only in the same  
330 manner, to the same extent, and subject to the same limitations and provisions applicable  
331 to an owner or occupier contained in this article. In no event shall a security contractor be  
332 subject to liability for negligent security to an extent greater than the liability for negligent  
333 security of an owner or occupier.

334 (b) No security contractor shall be liable for negligent security except as provided in this  
335 Code section.

336 (c) Nothing in this Code section shall limit or otherwise affect any claim or remedy of an  
337 owner or occupier for breach of contract."

338 **SECTION 8.**

339 Said title is further amended in Article 1 of Chapter 12, relating to general provisions relative  
340 to damages, by adding a new Code section to read as follows:

341 "51-12-1.1.  
342 (a) In any civil action to recover damages resulting from injury or death to a person,  
343 special damages for medical and healthcare expenses shall be recoverable only as provided  
344 in this Code section.  
345 (b) Special damages for medical and healthcare expenses shall be limited to the expenses  
346 of medically necessary care, treatment, or services, and the amount of such special  
347 damages shall be limited to:  
348 (1) Amounts paid by or on behalf of the plaintiff to healthcare providers for reasonable  
349 and customary care, treatment, or services;  
350 (2) Amounts necessary to satisfy the incurred but unpaid charges for reasonable and  
351 customary care, treatment, or services due to a healthcare provider by the plaintiff or a  
352 third party on behalf of the plaintiff; and  
353 (3) With respect to medical and healthcare expenses not yet incurred, such amounts as  
354 are actually necessary to satisfy future charges for medically necessary care, treatment,  
355 or services.  
356 (c) If the plaintiff in any such civil action has any form of public or private health  
357 insurance that is subject to Code Section 33-24-56.1, including benefits under a  
358 governmental workers' compensation program, an unpaid charge for medically necessary  
359 care, treatment, or services under paragraph (2) of subsection (b) of this Code section shall  
360 be the amount by which the charge may be satisfied by the claimant's health insurance in  
361 addition to the amount representing the plaintiff's responsibility for the portion of the  
362 charge under the insurance contract or applicable governmental program, regardless of  
363 whether the health insurance has been used, is used, or will be used to satisfy the charge.  
364 (d) Nothing in this Code section shall be construed to limit the right of a plaintiff or  
365 defendant to present evidence or testimony, or both, challenging the reasonableness of  
366 medical and healthcare expenses, whether incurred or projected future expenses, or the  
367 medical necessity of any treatment."

**SECTION 9.**

368

369 Said title is further amended in said article by adding a new Code section to read as follows:

370 "51-12-15.371 In any action to recover for damages for bodily injury or wrongful death, any party may372 elect, by written demand prior to the entry of the pretrial order, to have liability and any373 award of damages determined at trial in the following manner:374 (1) In the first phase of the trial, the trier of fact shall determine the liability of each375 defendant, and if the trier of fact finds that any defendant is liable to the plaintiff, the trier376 of fact shall further determine through an appropriate form of the verdict the percentages377 of fault of all persons or entities that contributed to the injury or wrongful death as378 provided in Code Section 51-12-33, prior to any determination of the total amount of379 damages to be awarded, if any such findings are required. The evidence and arguments380 of counsel in the first phase of the trial shall be limited to the issues provided for in this381 paragraph;382 (2) If the trier of fact finds in the first phase of the trial that any defendant is liable to the383 plaintiff, the trial shall be recommenced. In the second phase of the trial, the trier of fact384 shall determine all compensatory damages to be awarded to the plaintiff, if any, and the385 evidence and arguments of counsel shall be limited to this issue; and386 (3) If the trier of fact finds in the second phase of the trial that any compensatory387 damages are to be awarded to the plaintiff, the trial may be recommenced for such further388 proceedings as may be required, including, but not limited to, proceedings provided for389 in subsection (d) of Code Section 51-12-5.1 concerning punitive damages and390 proceedings to determine liability for, and the amount of, any attorney's fees, court costs,391 or expenses of litigation that may be awarded by the trier of fact as provided in Code392 Section 13-6-11 or any other statute."

393

**SECTION 10.**

394 (a) This Act shall become effective upon its approval by the Governor or upon its becoming  
395 law without such approval.

396 (b) Sections 7 and 8 of this Act shall apply only with respect to causes of action arising on  
397 or after the effective date of this Act, and any prior causes of action shall be governed by  
398 prior law. It is the intention of the General Assembly that all other provisions of this Act  
399 shall apply to causes of action pending on the effective date of this Act, unless such  
400 application would be unconstitutional.

401

**SECTION 11.**

402 All laws and parts of laws in conflict with this Act are repealed.