

ENROLLED JOINT RESOLUTION NO. 1, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2004 SPECIAL SESSION

A JOINT RESOLUTION proposing to amend the Wyoming Constitution to modify the prohibition against the legislature limiting the amount of damages that may be recovered for causing personal injury or death of any person.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF WYOMING, two-thirds of all the members of the two houses, voting separately, concurring therein:

Section 1. The following proposal to amend Wyoming Constitution, Article 10, Section 4 is proposed for submission to the electors of the State of Wyoming at the next general election for approval or rejection to become valid as a part of the Constitution if ratified by a majority of the electors at the election:

Article 10, Section 4. Damages for personal injuries or death; worker's compensation.

(a) No law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person.

(b) Any section of this constitution to the contrary notwithstanding, for any civil action where a person alleges that a health care provider's act or omission in the provision of health care resulted in death or injury, no law shall be enacted limiting the amount of damages to be recovered for economic loss. However, the legislature may by general law limit the amount to be recovered from a health care provider for damages for noneconomic loss resulting from the death or injury.

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(c) Any contract or agreement with any employee waiving any right to recover damages for causing the death or injury of any employee shall be void. As to all extrahazardous employments the legislature shall provide by law for the accumulation and maintenance of a fund or funds out of which shall be paid compensation as may be fixed by law according to proper classifications to each person injured in such employment or to the dependent families of such as die as the result of such injuries, except in case of injuries due solely to the culpable negligence of the injured employee. The fund or funds shall be accumulated, paid into the state treasury and maintained in such manner as may be provided by law. Monies in the fund shall be expended only for compensation authorized by this section, for administration and management of the Worker's Compensation Act, debt service related to the fund and for workplace safety programs conducted by the state as authorized by law. The right of each employee to compensation from the fund shall be in lieu of and shall take the place of any and all rights of action against any employer contributing as required by law to the fund in favor of any person or persons by reason of the injuries or death. Subject to conditions specified by law, the legislature may allow employments not designated extrahazardous to be covered by the state fund at the option of the employer. To the extent an employer elects to be covered by the state fund and contributes to the fund as required by law, the employer shall enjoy the same immunity as provided for extrahazardous employments.

Section 2. That the Secretary of State shall endorse the following statement on the proposed amendment:

This amendment would allow the Wyoming legislature to enact laws limiting the amount of damages for noneconomic loss that could be awarded for injury or death caused by a

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health care provider. "Noneconomic loss" generally includes, but is not limited to, losses such as pain and suffering, inconvenience, mental anguish, loss of capacity for enjoyment of life, loss of consortium, and other losses the claimant is entitled to recover as damages under general law.

This amendment will not in any way affect the recovery of damages for economic loss under Wyoming law. "Economic loss" generally includes, but is not limited to, monetary losses such as past and future medical expenses, loss of past and future earnings, loss of use of property, costs of repair or replacement, the economic value of domestic services, loss of employment or business opportunities.

This amendment will not in any way affect the recovery of any additional damages known under Wyoming law as exemplary or punitive damages, which are damages allowed by law to punish a defendant and to deter persons from engaging in similar conduct in the future.

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Section 3. The Wyoming Legislature approved 2004 Budget Session Enrolled Joint Resolution No. 2, being original House Joint Resolution 11, proposing to amend Article 10, Section 4 of the Wyoming Constitution. It is the intent of the Legislature that both this Resolution and 2004 Budget Session Enrolled Joint Resolution No. 2 shall be submitted to the electors of the State and that if both Resolutions are approved all language in each Resolution shall become part of the Constitution. The subsection lettered (b) within this Resolution shall be relettered as (c) and the subsection lettered (c) within both Resolutions shall be relettered as (d).

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk