

Date of Hearing: August 20, 2025

**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

Buffy Wicks, Chair

SB 29 (Laird) – As Amended May 23, 2025

Policy Committee: Judiciary

Vote: 9 - 3

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill extends, until January 1, 2030, the time in which a decedent's personal representative may recover damages for the decedent's pain, suffering, or disfigurement while they were alive, and extends related reporting requirements for the same time period.

**FISCAL EFFECT:**

- 1) Costs (Legal Services Revolving Fund, General Fund, special funds), possibly in the hundreds of thousands of dollars to low millions of dollars annually in the near term, to DOJ to represent state agencies in litigation. DOJ reports it has received an increase in requests for representation from state agencies for wrongful death cases since 2021, when SB 447 was enacted (see below). DOJ has received an average of 30 such requests for representation each year since 2021, and expects the number of requests to increase if this bill is enacted. It is not clear whether this bill will increase the number of requests for representation or whether the number of requests will remain at the current level, which appears higher than before SB 447 was enacted. Either way, it seems likely that DOJ will need additional resources to handle the workload associated with these wrongful death cases.

DOJ anticipates costs of \$631,000 in fiscal year (FY) 2025-26, \$1.2 million in FY 2026-34, and \$604,000 in FY 2034-35 for its Torts and Condemnation Section for one deputy attorney general, additional attorney hours, one senior legal analyst, one legal secretary, and costs for external experts, consultants, and witnesses. DOJ's litigation costs are reimbursable through direct billings to client agencies. DOJ's costs will likely extend for several years after this bill's 2030 sunset date because it generally takes several years for each case to resolve.

- 2) Cost pressures (Trial Court Trust Fund, General Fund) to the courts to adjudicate additional and longer cases resulting from this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations. Judicial Council anticipates no costs associated with receiving data about settlements and judgments, and minor and absorbable costs to complete the required report.
- 3) Costs (General Fund, special funds) to state entities of an unknown but significant amount for litigation costs, settlements, and damages resulting from this bill. In the aggregate, these

costs may be in the tens of millions to hundreds of millions of dollars or higher, depending on the number of cases and the size of awards and settlements. As of when this analysis was prepared, the following state entities reported costs to this committee:

- The California Department of Corrections and Rehabilitation (CDCR) expects an unknown but significant increase in legal workload, costs for DOJ or contract counsel representation, and settlement amounts (General Fund). CDCR believes more lawsuits will be filed against the department and the duration of litigation will increase. CDCR anticipates hiring four attorneys and one analyst to handle the increased workload for an ongoing cost of \$1 million annually.
  - California Highway Patrol (CHP) reports it is hard to quantify expected costs, but identifies possible costs in the tens of millions of dollars, with actual costs depending on the number of cases against CHP and the amount of damages. One recent judgment against CHP on special verdict awarded \$5 million in damages and \$1 million for the decedent's pain and suffering. Future awards and settlements available due to this bill may produce similar costs for CHP.
  - California Department of Transportation (Caltrans) estimates costs in the tens of millions of dollars, if not more, in liability, depending on the number of cases that include claims affected by the bill. Caltrans reports that since 2022, it has settled 10 wrongful death cases for \$6.8 million, and has an additional 135 wrongful death cases pending with a combined exposure of approximately \$300 million.
- 4) Significant, non-reimbursable costs to local entities for litigation costs, settlements, and damages resulting from this bill.

#### COMMENTS:

- 1) **Background.** In 2021, the Legislature enacted SB 447 (Laird), Chapter 448, Statutes of 2021. SB 447 allows a representative or surviving family member of a person who died (the "decedent") to file a lawsuit seeking non-economic damages for the pain, suffering, or disfigurement the decedent experienced before their death. Before SB 447, a representative or survivor could seek only economic damages on behalf of a decedent – like compensation for their medical bills or lost wages resulting from the harm they experienced. SB 447 also requires plaintiffs to report certain settlements or damage awards to Judicial Council, and requires Judicial Council to report that information to the Legislature. Without further action, SB 447 will sunset on January 1, 2026.

This bill extends, until January 1, 2030, the time in which a representative or survivor may seek non-economic damages on behalf of a decedent. The bill also extends existing provisions that require plaintiffs to report certain case resolutions: judgments, consent judgments, and court-approved settlement agreements. However, since many cases are resolved through out-of-court settlements, which are not required to be reported under existing law or this bill, it is not clear whether this data will provide helpful information when lawmakers evaluate this policy again.

- 2) **Support and Opposition.** This bill is co-sponsored by Consumer Attorneys of California and Consumer Federation of California. Along with a coalition of supporters, they write:

Pain and suffering damages are particularly crucial for families of low- or no-wage earners—including children, stay-at-home parents, gig workers, domestic workers, and others—who often cannot recover significant economic damages. In such cases, pain and suffering may be the only meaningful form of compensation, especially when families face substantial medical bills or emotional trauma due to another's wrongdoing. If SB 447 is allowed to sunset, these families will again be left with no legal recourse for the suffering their loved ones endured. The law will once again favor defendants who stall justice and punish families already enduring unimaginable loss.

The bill is opposed by a number of business and insurance entities, which argue the bill will lead to an increase in court awards and settlements against businesses and government entities, enriching plaintiff's attorneys. These organizations oppose the bill entirely and believe the existing law should sunset in 2026.

A number of medical associations, health care providers, and related organizations oppose the bill unless it is amended to exempt medical malpractice claims. They write:

There is no doubt that if the sunset is removed or extended, the increases [in personal injury and wrongful death awards] we agreed to [in other legislation for] medical malpractice cases and the ability to recover additional pain and suffering will result in California's 17 public health care systems and the five University of California's academic medical centers seeing a dramatic increase in their medical malpractice costs. These institutions serve over 3.7 million patients annually and they provide a range of services for those who need it most. Increasing their costs will be seen and realized in our state budget, most likely in the millions of dollars.

In 2022, the Legislature increased the statutory caps on non-economic damages available in medical malpractice cases, amending the Medical Injury Compensation Reform Act (MICRA) with AB 35 (Reyes), Chapter 17, Statutes of 2022. These caps had not been updated since MICRA was enacted in 1975. AB 35 allowed a plaintiff to recover up to \$500,000 in a wrongful death case against a health care provider or health care institution based on professional negligence. This cap increases annually by \$50,000 until it reaches \$1 million. If a medical malpractice case does not involve wrongful death, the cap starts at \$350,000 and increases each year by \$40,000 until it reaches \$750,000. The medical stakeholders who oppose SB 29 argue the damages provided under AB 35 are sufficient for plaintiffs with medical malpractice claims. They believe by extending authorization for additional damages in these cases, SB 29 will dramatically increase medical malpractice costs for health care providers, destabilizing their finances and impacting their ability to provide care.