

## **Code of Civil Procedure—Raising Non-Economic Damage Caps, Amending Witness and Expert Witness Standards, Repealing Statutes Related to Collateral Source Benefits; SB 311**

**SB 311** amends the Code of Civil Procedure with regard to caps on non-economic damages, witness and expert witness testimony, and evidence of collateral source benefits.

The bill amends the limits to be applied for non-economic damages in personal injury actions as follows:

- \$250,000 for causes of action accruing from July 1, 1988, to July 1, 2014;
- \$300,000 for causes of action accruing on or after July 1, 2014, to July 1, 2018;
- \$325,000 for causes of action accruing on or after July 1, 2018, to July 1, 2022; and
- \$350,000 for causes of action accruing on or after July 1, 2022.

The rule of evidence governing opinion testimony is amended to clarify the opinion testimony that may be offered by a witness not testifying as an expert. The standard for admissibility of expert testimony is amended so that, where scientific, technical, or other specialized knowledge would help the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may offer opinion testimony if the testimony is based on sufficient facts or data, if the testimony is the product of reliable principles and methods, and if the witness has reliably applied the principles and methods to the facts of the case. The bill establishes a procedure by which, upon motion of a party, the court may hold a pretrial hearing to determine a witness' qualifications as an expert and whether the witness' testimony satisfies the requirements set forth above. The bill establishes that facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived or made known to the expert. If such facts or data are of a type reasonably relied upon by experts in the particular field in forming opinions or inferences, the facts or data do not need to be admissible into evidence for admission of the opinion or inference. Facts or data otherwise inadmissible may not be disclosed to the jury by the proponent unless the court determines the probative value outweighs any prejudicial effect.

Finally, the bill repeals statutes allowing evidence of collateral source benefits to be admissible in actions for personal injury or death and providing for a procedure for determination of net collateral source benefits and reduction of the judgment by such amount. [Note: the repealed statutes were declared unconstitutional and void by the Kansas Supreme Court in *Thompson v. KFB Ins. Co.*, 252 Kan. 1010, 1024 (1993).]