

Senate File 2028

JUDICIARY: Doyle, Chair; Mann, Coleman, Drake and Gentleman

SENATE FILE 2028

BY CORNING

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the maximum tort liability for noneconomic  
2 damages.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2028

1 Section 1. NEW SECTION. 668.15 MAXIMUM LIABILITY FOR  
2 NONECONOMIC DAMAGES.

3 1. In a verdict issued pursuant to this chapter, that  
4 portion of a verdict attributable to noneconomic damages for  
5 pain and suffering, loss of consortium, or loss of chance  
6 against any one defendant shall not exceed two hundred  
7 thousand dollars, except as otherwise provided pursuant to  
8 subsection 4.

9 2. In an action pursuant to this chapter which is tried to  
10 a jury and in which noneconomic damages for pain and  
11 suffering, loss of consortium, or loss of chance are sought or  
12 argued, the court shall, unless otherwise agreed to by all  
13 parties, instruct the jury that the portion of a verdict  
14 attributable to noneconomic damages for pain and suffering,  
15 loss of consortium, or loss of chance against any one  
16 defendant shall not exceed two hundred thousand dollars.

17 3. In an action brought pursuant to this chapter which is  
18 tried to a jury and in which noneconomic damages for pain and  
19 suffering, loss of consortium, or loss of chance are sought or  
20 argued, the court shall, unless otherwise agreed to by all  
21 parties, require that the jury return a verdict itemizing the  
22 injuries and damages awarded pursuant to the verdict.

23 4. In an action brought pursuant to this chapter in which  
24 noneconomic damages for pain and suffering, loss of  
25 consortium, or loss of chance are awarded in the maximum  
26 amount allowed pursuant to subsection 1, the claimant may  
27 petition the court which heard the original action for a  
28 waiver of the maximum limitation and for a granting of an  
29 increase in that portion of the original verdict attributable  
30 to noneconomic damages for pain and suffering, loss of  
31 consortium, or loss of chance. Any waiver of the maximum  
32 limitation and subsequent increase in that portion of the  
33 original verdict attributable to noneconomic damages for pain  
34 and suffering, loss of consortium, or loss of chance shall be  
35 subject to the following requirements:

1 a. A hearing shall first be granted at which all parties  
2 may appear and present evidence and argument relating to any  
3 waiver of the maximum limitation and subsequent increase in  
4 the original verdict.

5 b. A waiver of the maximum limitation and subsequent  
6 increase in the original verdict shall only be made upon a  
7 determination that the portion of the original verdict  
8 attributable to noneconomic damages for pain and suffering,  
9 loss of consortium, or loss of chance is clearly insufficient  
10 to compensate the claimant based upon the evidence presented  
11 to the court in the original action and that the failure to  
12 waive the maximum limitation would result in significant  
13 hardship upon the claimant.

14 c. Any increase in that portion of the original verdict  
15 attributable to noneconomic damages for pain and suffering,  
16 loss of consortium, or loss of chance shall be consistent with  
17 the percentages of fault and evidence as to total damages  
18 determined in the original action.

19 5. The limitations on the amount recoverable for  
20 noneconomic damages for pain and suffering, loss of  
21 consortium, or loss of chance pursuant to this section shall  
22 be indexed every two years on July 1 by rule of the  
23 commissioner of insurance in proportion to the net change in  
24 the United States city average consumer price index for all  
25 urban consumers during the preceding twenty-four months. The  
26 supreme court shall implement the biennial indexing by the  
27 issuance of rules as deemed necessary.

28 EXPLANATION

29 This bill limits a damage award for noneconomic damages for  
30 pain and suffering, loss of consortium, or loss of chance  
31 against any one defendant to \$200,000.

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