

Johnson

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SENATE FILE 398
BY TINSMAN, RENSINK, HEDGE, and
JENSEN

(COMPANION TO HF 338 BY JOHNSON)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain tort actions by limiting the maximum
2 liability for noneconomic damages and by modifying the statute
3 of limitations for certain malpractice actions.

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

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SF 398

1 Section 1. NEW SECTION. 568.16 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
5 against any one defendant shall not exceed two hundred fifty
6 thousand dollars, except as otherwise provided pursuant to
7 subsections 4 and 5.

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

14 3. In an action brought pursuant to this chapter and tried
15 to a jury, and in which noneconomic damages are sought or
16 argued, the court shall, unless otherwise agreed to by all
17 parties, require that the jury return a verdict itemizing the
18 injuries and damages awarded pursuant to the verdict.

19 4. In an action brought pursuant to this chapter and in
20 which noneconomic damages are awarded in the maximum amount
21 allowed pursuant to subsection 1, the claimant may petition
22 the court which heard the original action for a waiver of the
23 maximum limitation and for a granting of an increase in that
24 portion of the original verdict attributable to noneconomic
25 damages. A waiver of the maximum limitation and subsequent
26 increase in that portion of the original verdict attributable
27 to noneconomic damages is subject to the following
28 requirements:

29 a. A hearing shall first be granted at which all parties
30 may appear and present evidence and argument relating to a
31 waiver of the maximum limitation and subsequent increase in
32 the original verdict.

33 b. A waiver of the maximum limitation and subsequent
34 increase in the original verdict shall only be made upon a
35 determination that the portion of the original verdict

1 attributable to noneconomic damages is clearly insufficient
2 based upon the evidence presented to the court in the original
3 action and that the failure to waive the maximum limitation
4 would result in significant hardship for the claimant.

5 c. An increase in that portion of the original verdict
6 attributable to noneconomic damages must be consistent with
7 the percentages of fault and evidence as to total damages
8 determined in the original action.

9 5. The limitations on the amount recoverable for
10 noneconomic damages pursuant to this section shall be indexed
11 every two years on July 1 by rule of the commissioner of
12 insurance in proportion to the net change in the United States
13 city average consumer price index for all urban consumers
14 during the preceding twenty-four months. The supreme court
15 shall implement the biennial indexing by the issuance of rules
16 as necessary.

17 Sec. 2. Section 614.8, Code 1991, is amended to read as
18 follows:

19 614.8 MINORS AND MENTALLY ILL PERSONS.

20 The times limited for actions herein, except those brought
21 for penalties and forfeitures or for malpractice, shall be
22 extended in favor of minors and mentally ill persons, so that
23 they shall have one year from and after the termination of
24 such disability within which to commence said the action.

25 EXPLANATION

26 This bill establishes a cap on noneconomic damages of
27 \$250,000 per defendant with instructions to that effect to be
28 given to the jury. Verdicts including awards for noneconomic
29 damages are to be itemized and the cap may be waived and
30 exceeded on petition by the claimant after a hearing is held
31 on the issue of damages, if the failure to waive would result
32 in significant hardship for the claimant because the portion
33 of the verdict attributable to noneconomic damages is clearly
34 insufficient based upon the evidence presented to the court in
35 the original action, and any increase is consistent with the

1 percentages of fault and evidence as to total damages
2 determined in the original action.

3 The bill also eliminates for malpractice actions, the
4 extension of the statute of limitations applicable to minors
5 and mentally ill persons.

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