

Senate Study Bill 3085 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to total amount recoverable as a noneconomic
2 damage award against a health care provider.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.136A, subsection 2, Code 2020, is
2 amended to read as follows:

3 2. The total amount recoverable in any civil action for
4 noneconomic damages for personal injury or death, whether in
5 tort, contract, or otherwise, against a health care provider
6 shall be limited to two hundred fifty thousand dollars for any
7 occurrence resulting in injury or death of a patient regardless
8 of the number of plaintiffs, derivative claims, theories of
9 liability, or defendants in the civil action, ~~unless the jury~~
10 ~~determines that there is a substantial or permanent loss or~~
11 ~~impairment of a bodily function, substantial disfigurement,~~
12 ~~or death, which warrants a finding that imposition of such a~~
13 ~~limitation would deprive the plaintiff of just compensation for~~
14 ~~the injuries sustained.~~

15

EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the total amount of noneconomic damages
19 recoverable in a civil action for personal injury or death
20 against a health care provider.

21 Current law limits to \$250,000 the amount of noneconomic
22 damages recoverable for any occurrence resulting in injury or
23 death of a patient regardless of the number of plaintiffs,
24 derivative claims, theories of liability, or defendants in
25 the civil action, unless the jury determines that there is
26 a substantial or permanent loss or impairment of a bodily
27 function, substantial disfigurement, or death, which warrants
28 a finding that imposition of such a limitation would deprive
29 the plaintiff of just compensation for the injuries sustained.
30 Current law also provides that the limitation on damages
31 shall not apply as to a defendant if the defendant's actions
32 constituted actual malice.

33 The bill eliminates the exception to the limitation
34 of \$250,000 that would allow the jury to determine if the
35 imposition of such a limitation would deprive the plaintiff of

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1 just compensation for the injuries sustained.

2 Under the bill, "noneconomic damages" means damages arising
3 from pain, suffering, inconvenience, physical impairment,
4 mental anguish, emotional pain and suffering, loss of chance,
5 loss of consortium, or any other nonpecuniary damages.