

Senate File 2220 - Introduced

SENATE FILE 2220

BY DONAHUE

A BILL FOR

1 An Act relating to noneconomic, punitive, and exemplary damage
2 awards against health care providers and hospitals.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.136A, subsection 1, paragraph b,
2 Code 2024, is amended to read as follows:

3 b. ~~(1)~~ "Noneconomic damages" means damages arising from
4 pain, suffering, inconvenience, physical impairment, mental
5 anguish, emotional pain and suffering, loss of chance, loss of
6 consortium, or any other nonpecuniary damages.

7 ~~(2) "Noneconomic damages" does not include the loss of~~
8 ~~dependent care, including the loss of child care, due to the~~
9 ~~death of or severe injury to a spouse or parent who is the~~
10 ~~primary caregiver of a child under the age of eighteen or a~~
11 ~~disabled adult. Such damages shall be considered economic~~
12 ~~damages.~~

13 Sec. 2. Section 147.136A, subsection 2, Code 2024, is
14 amended to read as follows:

15 2. ~~Subject to subsection 4, the~~ The total amount recoverable
16 in any civil action for noneconomic damages for personal injury
17 or death, whether in tort, contract, or otherwise, against a
18 health care provider shall be limited to two hundred fifty
19 thousand dollars for any occurrence resulting in injury or
20 death of a patient regardless of the number of plaintiffs,
21 derivative claims, theories of liability, or defendants in
22 the civil action, ~~shall not exceed two hundred fifty thousand~~
23 ~~dollars~~ unless the jury determines that there is a substantial
24 or permanent loss or impairment of a bodily function,
25 substantial disfigurement, ~~loss of pregnancy,~~ or death, which
26 warrants a finding that imposition of such a limitation would
27 deprive the plaintiff of just compensation for the injuries
28 sustained, ~~in which case the amount recoverable shall not~~
29 ~~exceed one million dollars, or two million dollars if the civil~~
30 ~~action includes a hospital as defined in section 135B.1.~~

31 Sec. 3. Section 147.136A, subsection 4, Code 2024, is
32 amended by striking the subsection.

33 Sec. 4. Section 668A.1, subsection 2, paragraphs a and b,
34 Code 2024, are amended to read as follows:

35 a. If the answer or finding pursuant to subsection 1,

1 paragraph "b", is affirmative, ~~or if the claim is against any~~
2 ~~physician and surgeon, osteopathic physician and surgeon,~~
3 ~~dentist, podiatric physician, optometrist, pharmacist,~~
4 ~~chiropractor, physician assistant, or nurse, licensed under~~
5 ~~chapter 147, or a hospital licensed under chapter 135B, arising~~
6 ~~out of patient care, or if the claim is part of a civil action~~
7 ~~involving the operation of a commercial motor vehicle, then the~~
8 full amount of the punitive or exemplary damages awarded shall
9 be paid to the claimant.

10 b. If the answer or finding pursuant to subsection 1,
11 paragraph "b", is negative, ~~and if the claim is not against~~
12 ~~any physician and surgeon, osteopathic physician and surgeon,~~
13 ~~dentist, podiatric physician, optometrist, pharmacist,~~
14 ~~chiropractor, physician assistant, or nurse, licensed under~~
15 ~~chapter 147, or a hospital licensed under chapter 135B,~~
16 ~~arising out of patient care, and if the claim is not part of~~
17 a civil action involving the operation of a commercial motor
18 vehicle, then after payment of all applicable costs and fees,
19 an amount not to exceed twenty-five percent of the punitive or
20 exemplary damages awarded may be ordered paid to the claimant,
21 with the remainder of the award to be ordered paid into a
22 civil reparations trust fund administered by the state court
23 administrator. Funds placed in the civil reparations trust
24 shall be under the control and supervision of the executive
25 council, and shall be disbursed only for purposes of indigent
26 civil litigation programs or insurance assistance programs.

27 EXPLANATION

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

30 This bill relates to noneconomic, punitive, and exemplary
31 damage awards against health care providers. Under current
32 law, the damages for loss of dependent care due to death of
33 or severe injury to a spouse or parent who is the primary
34 caregiver are considered economic damages. The bill repeals
35 this provision and provides that economic damages do not

1 include loss of dependent care.

2 Current law limits the amount of noneconomic damages
3 that a jury can award a plaintiff to \$250,000, but provides
4 an exception for cases where a jury finds that there is
5 a substantial or permanent loss or impairment of a bodily
6 function, substantial disfigurement, loss of pregnancy, or
7 death in which case the limit is increased to \$1 million, or \$2
8 million if the action includes a hospital. The bill provides
9 that if the exception to the \$250,000 cap applies, there is no
10 limit to the amount of noneconomic damages that may be awarded,
11 and removes loss of pregnancy as a qualifying exception.

12 Current law provides for a 2.1 percent annual increase in the
13 damages cap. The bill repeals this provision.

14 Under current law, punitive or exemplary damages may be
15 awarded if, by a preponderance of clear, convincing, and
16 satisfactory evidence, the conduct of the defendant from which
17 the claim arose constituted willful and wanton disregard for
18 the rights or safety of another. In cases involving a medical
19 provider or hospital and arising out of medical care, the full
20 amount of the award of punitive or exemplary damages shall be
21 paid to the claimant. Under the bill, in cases involving a
22 medical provider or hospital and arising out of medical care,
23 the amount of punitive and exemplary damages paid to a claimant
24 shall not exceed 25 percent, with the remainder awarded to
25 the civil reparations trust fund, unless the conduct of the
26 defendant was directed specifically at the claimant, or at the
27 person from which the claimant's claim is derived. Funds in
28 the civil reparations trust are used for purposes of indigent
29 civil litigation programs or insurance assistance programs.