

Senate Study Bill 3011 - Introduced

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

A BILL FOR

1 An Act relating to civil procedure, including disclosures
2 that may be made to a jury and the availability of certain
3 medical records.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.136A, Code 2024, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5. The limitations specified in subsection
4 2 shall not be disclosed to a jury in any such action, but shall
5 be imposed by the court before judgment.

6 Sec. 2. Section 228.9, Code 2024, is amended to read as
7 follows:

8 **228.9 Disclosure of psychological test material.**

9 1. Except as otherwise provided in [this section](#), a person in
10 possession of psychological test material shall not disclose
11 the material to any other person, including the individual
12 who is a subject of the test. In addition, the test material
13 shall not be disclosed in any administrative, judicial, or
14 legislative proceeding. ~~However, upon the~~

15 2. Upon request of an individual who is the subject of
16 a test, all records associated with a psychological test of
17 that individual shall be disclosed to a psychologist licensed
18 pursuant to [chapter 154B](#) designated by the individual. An
19 individual's request for the records shall be in writing and
20 shall comply with the requirements of [section 228.3](#), relating
21 to voluntary disclosures of mental health information, except
22 that the individual shall not have the right to inspect the
23 test materials.

24 3. Unless otherwise ordered by a court, subsection 1 shall
25 not apply in a civil action if a demand for psychological test
26 material has been made pursuant to a discovery request or a
27 subpoena issued in litigation and the cognitive abilities of
28 the individual who is the subject of the test are at issue in
29 the litigation.

30 4. If a court, in a civil action involving sexual abuse,
31 receives test material from the subject of the test, the
32 psychological test material shall be sealed by a protective
33 order and barred from disclosure to any person not directly
34 involved in the litigation.

35 Sec. 3. Section 622.4, Code 2024, is amended to read as

1 follows:

2 **622.4 Medical expenses.**

3 1. Evidence offered to prove past medical expenses shall
4 be limited to evidence of the amounts actually paid to satisfy
5 the bills that have been satisfied, regardless of the source
6 of payment, and evidence of the amounts actually necessary
7 to satisfy the bills that have been incurred but not yet
8 satisfied. Evidence of the amounts actually necessary to
9 satisfy the bills that have been incurred shall not exceed
10 the amount by which the bills could be satisfied by the
11 claimant's health insurance, regardless of whether such health
12 insurance is used or will be used to satisfy the bills. This
13 section does not impose upon any party an affirmative duty to
14 seek a reduction in billed charges to which the party is not
15 contractually entitled.

16 2. If the claimant fails to offer evidence to prove past or
17 future medical expenses, the adverse party may offer evidence
18 of the plaintiff's medical expenses into evidence consistent
19 with subsection 1 and section 668.14A.

20 Sec. 4. Section 622.10, subsection 2, Code 2024, is amended
21 to read as follows:

22 2. The prohibition does not apply to cases where the
23 person in whose favor the prohibition is made waives the
24 rights conferred; nor does the prohibition apply to physicians
25 or surgeons, physician assistants, advanced registered
26 nurse practitioners, mental health professionals, or to
27 the stenographer or confidential clerk of any physicians or
28 surgeons, physician assistants, advanced registered nurse
29 practitioners, or mental health professionals, in a civil
30 action in which the physical or mental condition of the person
31 in whose favor the prohibition is made is an element or factor
32 of the claim or defense of the person or of any party claiming
33 through or under the person. The evidence is admissible
34 upon trial of the action only as it relates to the condition
35 alleged.

1 Sec. 5. Section 622.10, subsection 3, paragraphs a and b,
2 Code 2024, are amended to read as follows:

3 a. In a civil action in which the physical or mental
4 condition of the plaintiff in whose favor the prohibition
5 is made is an element or factor of the claim or defense of
6 the adverse party or of any party claiming through or under
7 the adverse party, the adverse party shall make a written
8 request ~~for records relating to the condition alleged~~ upon
9 the plaintiff's attorney for a legally sufficient patient's
10 waiver under federal and state law. Upon receipt of a written
11 request, the plaintiff shall execute a legally sufficient
12 patient's waiver and release it to the adverse party making the
13 request within sixty days of receipt of the written request.
14 The patient's waiver may require a physician or surgeon,
15 physician assistant, advanced registered nurse practitioner, or
16 mental health professional to do all of the following:

17 (1) Provide a complete copy of the patient's records
18 regardless of the date of treatment, including but not limited
19 to any reports or diagnostic imaging relating to the patient's
20 physical or mental condition alleged. The plaintiff shall not
21 refuse to allow access to mental health information if the
22 plaintiff claims physical pain and suffering, mental pain and
23 suffering, loss of full mind and body, or emotional distress.

24 (2) Consult with the attorney for the adverse party prior
25 to providing testimony regarding the plaintiff's medical
26 history and the condition alleged and opinions regarding health
27 etiology and prognosis for the condition alleged subject to the
28 limitations in paragraphs "c" and "e".

29 b. If a plaintiff fails to sign a waiver or file objection
30 with the court within the prescribed time period, the court
31 may order disclosure or compliance. The failure of a party
32 to comply with the court's order may be grounds for dismissal
33 of the action or any other relief authorized under the rules
34 of civil procedure. In the event the plaintiff files a
35 timely objection to the written request for a patient's waiver

1 and release, the plaintiff has the burden of proof that the
2 particular records are not relevant to the subject matter
3 of the action and not reasonably calculated to lead to the
4 discovery of admissible evidence.

5 Sec. 6. Section 668.14, subsection 1, Code 2024, is amended
6 to read as follows:

7 1. In an action brought pursuant to **this chapter** seeking
8 damages for personal injury, the court shall permit evidence
9 and argument as to the previous payment or future right of
10 payment of actual economic losses incurred or to be incurred
11 as a result of the personal injury for necessary medical care,
12 rehabilitation services, and custodial care, past lost wages,
13 future loss of earning capacity, workers' compensation, and
14 disability except to the extent that the previous payment or
15 future right of payment is ~~pursuant to a state or federal~~
16 ~~program or~~ from assets of the claimant or the members of the
17 claimant's immediate family.

18 Sec. 7. Section 668.15A, Code 2024, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 6. The limitations specified in subsection
21 2 shall not be disclosed to a jury in any such action, but shall
22 be imposed by the court before judgment.

23 EXPLANATION

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

26 This bill relates to civil procedure, including disclosures
27 that may be made to a jury and the availability of certain
28 medical records.

29 The bill prohibits the jury from being informed of a damages
30 cap applied by the court after a verdict is rendered in medical
31 malpractice cases.

32 In a civil action where a demand for psychological test
33 material has been made by a discovery request or a subpoena
34 issued in litigation, and the cognitive abilities of the
35 individual who is the subject of the test are at issue in the

1 litigation, the bill provides that the material is discoverable
2 by the adverse party. The bill seals psychological test
3 material from the subject of the test in civil sexual assault
4 actions and is only discoverable by those directly involved in
5 the litigation.

6 The bill allows the adverse party to present evidence of the
7 plaintiff's medical expenses if the plaintiff fails to offer
8 evidence to prove the medical expenses.

9 The bill allows mental and physical condition records held
10 in a professional capacity to be discoverable by the adverse
11 party by written request to the plaintiff. The plaintiff
12 cannot refuse to waive confidentiality of those records if
13 the plaintiff is claiming physical pain and suffering, mental
14 pain and suffering, loss of full body and mind, or emotional
15 distress. If the plaintiff does object to the record request,
16 the plaintiff has the burden of proof that the information
17 sought is not relevant to the subject matter of the action and
18 reasonably calculated to lead to the discovery of admissible
19 evidence.

20 The bill expands the disclosure available to the jury of
21 actual economic losses as a result from the injury to also
22 include past lost wages, future loss of earning capacity,
23 workers' compensation, and disability benefits.

24 The bill prohibits disclosure of the newly enacted damages
25 caps to the jury applied by the court after a verdict is
26 rendered in commercial motor vehicle tort cases.