

House File 161 - Reprinted

HOUSE FILE 161
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO HF 102)

(As Amended and Passed by the House February 8, 2023)

A BILL FOR

1 An Act relating to damage awards against health care providers,
2 creating a medical error task force, and including effective
3 date and applicability provisions.

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

DIVISION I

DAMAGE AWARDS AGAINST HEALTH CARE PROVIDERS

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3 Section 1. Section 147.136A, subsection 1, paragraph b,
4 Code 2023, is amended to read as follows:

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

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

15 Sec. 2. Section 147.136A, subsection 2, Code 2023, is
16 amended to read as follows:

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

33 Sec. 3. Section 147.136A, Code 2023, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 4. The limitations on damages contained

1 in subsection 2 shall increase by two and one-tenth percent
2 on January 1, 2028, and each January 1 thereafter. In any
3 civil action described in this section, such limitations on
4 damages shall be the amount effective at the time of the
5 occurrence. The commissioner of insurance shall publish the
6 amount of the limitations on damages contained in this section
7 on the insurance division's internet site and shall update the
8 published amount annually.

9 Sec. 4. Section 668A.1, subsection 2, paragraphs a and b,
10 Code 2023, are amended to read as follows:

11 a. If the answer or finding pursuant to [subsection 1,](#)
12 paragraph "b", is affirmative, or if the claim is against any
13 physician and surgeon, osteopathic physician and surgeon,
14 dentist, podiatric physician, optometrist, pharmacist,
15 chiropractor, physician assistant, or nurse, licensed under
16 chapter 147, or a hospital licensed under chapter 135B, arising
17 out of patient care, then the full amount of the punitive or
18 exemplary damages awarded shall be paid to the claimant.

19 b. If the answer or finding pursuant to [subsection 1,](#)
20 paragraph "b", is negative, and if the claim is not against
21 any physician and surgeon, osteopathic physician and surgeon,
22 dentist, podiatric physician, optometrist, pharmacist,
23 chiropractor, physician assistant, or nurse, licensed under
24 chapter 147, or a hospital licensed under chapter 135B, arising
25 out of patient care, then after payment of all applicable
26 costs and fees, an amount not to exceed twenty-five percent
27 of the punitive or exemplary damages awarded may be ordered
28 paid to the claimant, with the remainder of the award to be
29 ordered paid into a civil reparations trust fund administered
30 by the state court administrator. Funds placed in the civil
31 reparations trust shall be under the control and supervision of
32 the executive council, and shall be disbursed only for purposes
33 of indigent civil litigation programs or insurance assistance
34 programs.

35 Sec. 5. EFFECTIVE DATE. This division of this Act, being

1 deemed of immediate importance, takes effect upon enactment.

2 Sec. 6. APPLICABILITY. This division of this Act applies to
3 causes of action accrued on or after the effective date of this
4 division of this Act.

5 DIVISION II

6 MEDICAL ERROR TASK FORCE

7 Sec. 7. MEDICAL ERROR TASK FORCE.

8 1. The department of health and human services shall
9 convene a task force to review medical error rates of licensed
10 physicians in this state and shall make recommendations to the
11 general assembly and the director of health and human services
12 including recommendations that address options for reducing
13 medical error rates, improvements in education and training
14 to minimize medical errors, and whether applicable penalties
15 for medical errors and physician licensure review measures are
16 sufficient.

17 2. a. The task force shall include all of the following
18 voting members:

19 (1) The director of health and human services, or the
20 director's designee.

21 (2) The director of inspections and appeals, or the
22 director's designee.

23 (3) The executive director of the board of medicine.

24 (4) The ombudsman.

25 (5) A representative of the Iowa medical society.

26 (6) A representative of the board of regents affiliated with
27 the university of Iowa hospitals and clinics.

28 (7) The commissioner of insurance, or the commissioner's
29 designee.

30 (8) The attorney general, or the attorney general's
31 designee.

32 b. The task force shall also include four members of the
33 general assembly serving as ex officio, nonvoting members, one
34 representative to be appointed by the speaker of the house of
35 representatives, one representative to be appointed by the

1 minority leader of the house of representatives, one senator to
2 be appointed by the president of the senate after consultation
3 with the majority leader of the senate, and one senator to be
4 appointed by the minority leader of the senate.

5 c. The director of health and human services, or the
6 director's designee, may add members to the task force as
7 necessary to complete the work of the task force.

8 3. The department of health and human services shall provide
9 administrative support to the task force. The director of
10 health and human services, or the director's designee, shall
11 serve as chairperson of the task force, and shall schedule
12 meetings of the task force as necessary to complete the work
13 of the task force.

14 4. The task force shall dissolve upon submission of the
15 report to the general assembly and the director of health and
16 human services, but no later than January 8, 2024.