

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5712-02  
Bill No.: Perfected HCS for HB 2119  
Subject: Civil Procedure; Courts  
Type: Original  
Date: April 11, 2018

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Bill Summary: This proposal modifies provisions relating to punitive damages.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials at the **Department of Corrections (DOC)** assume an unknown savings from this proposal. The DOC state it could reduce the potential pay out on punitive damages for medical or for other reasons should the DOC get sued.

Due to the speculative nature, **Oversight** will range the impact to DOC from \$0 to the unknown savings.

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Office of the Attorney General (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

Officials at the **Department of Health and Senior Services**, the **Department of Social Services**, the **Department of Mental Health**, the **Department of Labor and Industrial Relations**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

### **House Amendments Nos. 1, 2, and 3**

Officials at the **Department of Corrections (DOC)** assume an unknown savings from this proposal. The DOC state it could reduce the potential pay out on punitive damages for medical or for other reasons should the DOC get sued.

Due to the speculative nature, **Oversight** will range the impact to DOC from \$0 to the unknown savings

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

ASSUMPTION (continued)

Officials at the **Department of Mental Health**, the **Department of Labor and Industrial Relations** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume no fiscal impact to their respective agencies from this proposal.

House Amendment #4 - §510.265

Officials at the **Office of the State Courts Administrator** assume there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials at the **Department of Mental Health**, the **Department of Labor and Industrial Relations** and the **Department of Insurance, Financial Institutions and Professional Registration** each assume no fiscal impact to their respective agencies from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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**GENERAL REVENUE**

<u>Savings</u> - DOC - potential reduction on pay outs of punitive damages	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
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<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>	<b><u>\$0 or Unknown</u></b>
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<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### FISCAL DESCRIPTION

This bill provides that punitive damages shall not be awarded except upon proof by clear and convincing evidence that the defendant intentionally caused harm or acted with a conscious disregard for the safety of others. Punitive damages may not be awarded against an employer or principal because of the conduct of an employee or agent unless specified criteria are met.

The bill prohibits any initial pleading from containing a claim for a punitive damage award. A claimant may amend a pleading with leave of court based upon evidence providing a reasonable basis for the recovery of punitive damages. The bill repeals a provision of law that allows a judge to apply the doctrines of remittitur and additur to a punitive damage award. The provisions of this section apply to any civil action pending on August 28, 2018, or filed on or after August 28, 2018 (Section 510.259, RSMo).

This bill provides that punitive damages may be awarded against a health care provider in a malpractice action only if the plaintiff proves by clear and convincing evidence that the defendant intentionally caused damage to the plaintiff or demonstrated malicious misconduct (Sections 538.205 & 538.210).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Courts Administrator  
Office of the Attorney General  
Office of the State Public Defender  
Office of Prosecution Services  
Department of Corrections  
Department of Health and Senior Services  
Department of Mental Health  
Department of Social Services  
Department of Labor and Industrial Relations  
Department of Insurance, Financial Institutions and Professional Registration

Ross Strobe

A handwritten signature in black ink, appearing to read "Ross Strobe", with a stylized, cursive script.

Acting Director  
April 11, 2018