

HCS HB 2119 -- PUNITIVE DAMAGES

SPONSOR: Mathews

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Litigation Reform by a vote of 9 to 2. Voted "Do Pass" by the Rules- Legislative Oversight Committee by a vote of 7 to 4.

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).

PROPONENTS: Supporters say that this bill will return the state to the original standard for the assessment of punitive damages by requiring a knowledge element. This will facilitate settlement discussions between parties without an unsupported threat of punitive damages in the pleadings.

Testifying for the bill were Representative Mathews; Mark Behrens, American Tort Reform Association; Richard A. Ahrens, Associated Industries of Missouri; Property Casualty Insurers Association of America; Missouri Chamber of Commerce and Industry; Missouri Insurance Coalition; National Federation of Independent Business; and the Missouri Hospital Association.

OPPONENTS: Those who oppose the bill say that the bill eliminates the second purpose of punitive damages, which is to deter others from committing like conduct.

Testifying against the bill were Randy Rhodes and Douglas Noland.