

HCS HB 2119 -- PUNITIVE DAMAGES (Mathews)

COMMITTEE OF ORIGIN: Special Committee on Litigation Reform

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 deliberate and flagrant disregard for the safety of others. Punitive damages may only be awarded if there is an award of more than nominal damages, or, if nominal damages are awarded the claim involved privacy rights, property rights, or rights protected by the United States Constitution or Missouri Constitution. 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).

The bill excepts from the provisions of Section 510.259 certain claims under the Missouri Human Rights Act as that are related to housing (Section 510.265).

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 and 538.210).