

## HB 1553 -- PUNITIVE DAMAGES

SPONSOR: DeGroot

The bill provides that punitive damages shall be awarded only if the plaintiff proves by clear and convincing evidence that the defendant intentionally harmed the plaintiff without just cause or acted with a deliberate and flagrant disregard for the safety of others, and the plaintiff is awarded more than nominal damages. Punitive damages may be awarded against an employer only due to an employee's conduct in certain situations, as provided in the bill.

A claim for punitive damages shall not be contained in the initial pleading and may be filed only as a written motion with permission of the court no later than 120 days prior to the final pretrial conference or trial date. The written motion for punitive damages must be supported by evidence. A pleading seeking a punitive damages award may be filed only after the court determines that the trier of fact is likely to conclude that the standards, as provided in the bill, for punitive damages have been met.

Currently, in jury trials involving a claim for punitive damages, there is a bifurcated trial. In the first stage, the jury determines liability and amount for compensatory damages and the liability for punitive damages, and the amount of punitive damages is determined in the second stage. This bill provides that after an award of compensatory damages has been made in the first stage, then the court shall determine whether punitive damages may be considered by the jury. After the court's determination, the jury will determine whether to award punitive damages and the amount.

Currently, if a defendant has previously paid punitive damages in another state for the same conduct, following a hearing the court may credit the jury award of punitive damages by the amount previously paid. This bill provides that the defendant may be credited for punitive damages also paid in federal court.

These provisions do not apply to claims for unlawful housing practices under the Missouri Human Rights Act.

The bill modifies the definition of "punitive damages" as it is used in sections of law relating to actions for damages against a health care provider for personal injury or death caused by the rendering of health care services.

In order to be awarded punitive damages, the jury must find by clear and convincing evidence that the health care provider intentionally caused damage or demonstrated malicious misconduct. Evidence of negligence, including indifference or conscious

disregard for the safety of others, does not constitute a basis for a punitive damage award.

This bill is similar to HB 489 (2019).