

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2593

BY DELEGATES KEATON, HAYNES, PINSON, WAMSLEY, L.

PACK, BURKHAMMER AND B. WARD

Introduced February 18, 2021; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §55-7-29 of the Code of West Virginia, 1931, as amended, relating
 2 to modifying the definition of punitive damages in West Virginia and increasing the
 3 threshold for awarding such damages in civil litigation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-29. Limitations on punitive damages.

1 (a) An award of punitive damages may only occur in a civil action against a defendant if a
 2 plaintiff establishes by clear and convincing evidence that the damages suffered were the result
 3 of the conduct that was carried out by the defendant with actual malice toward the plaintiff or a
 4 conscious, reckless and outrageous indifference to the health, safety and welfare of others.
 5 Evidence of negligence, including indifference or conscious disregard for the safety of others,
 6 does not constitute intentional conduct or malicious misconduct.

7 (b) Any civil action tried before a jury involving punitive damages may, upon request of
 8 any defendant, be conducted in a bifurcated trial in accordance with the following guidelines:

9 (1) In the first stage of a bifurcated trial, the jury shall determine liability for compensatory
 10 damages and the amount of compensatory damages, if any.

11 (2) If the jury finds during the first stage of a bifurcated trial that a defendant is liable for
 12 compensatory damages, then the court shall determine whether sufficient evidence exists to
 13 proceed with a consideration of punitive damages.

14 (3) If the court finds that sufficient evidence exists to proceed with a consideration of
 15 punitive damages, the same jury shall determine if a defendant is liable for punitive damages in
 16 the second stage of a bifurcated trial and may award such damages.

17 (4) If the jury returns an award for punitive damages that exceeds the amounts allowed
 18 under subsection (c) of this section, the court shall reduce any such award to comply with the
 19 limitations set forth therein.

20 (c) The amount of punitive damages that may be awarded in a civil action may not exceed

21 the greater of four times the amount of compensatory damages or \$500,000, whichever is greater.

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NOTE: The purpose of this bill is to heighten the standard of proof for awarding punitive damages in civil litigation in West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.