

Withdrawn
3/10/04

FEB 10 2004

COMMERCE, REGULATION & LABOR

HOUSE FILE 2202

BY HORBACH

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to an award of punitive or exemplary damages.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2202

1 Section 1. Section 668A.1, Code 2003, is amended to read
2 as follows:

3 668A.1 PUNITIVE OR EXEMPLARY DAMAGES.

4 1. In a trial of a claim involving the request for
5 punitive or exemplary damages, the court shall instruct the
6 jury to answer special interrogatories or, if there is no
7 jury, shall make findings, indicating all of the following:

8 a. Whether, by a preponderance of clear, and convincing,
9 ~~and-satisfactory~~ evidence, the conduct of the defendant from
10 which the claim arose constituted willful and wanton disregard
11 for the rights or safety of another.

12 b. Whether the conduct of the defendant was directed
13 specifically at the claimant, or at the person from which the
14 claimant's claim is derived.

15 c. Whether, by a preponderance of clear and convincing
16 evidence, the conduct of the defendant from which the claim
17 arose constituted actual malice.

18 2. An award for punitive or exemplary damages shall not be
19 made unless the answer or finding pursuant to subsection 1,
20 paragraph "a", is affirmative. If such answer or finding is
21 affirmative, the jury, or court if there is no jury, shall fix
22 the amount of punitive or exemplary damages to be awarded, and
23 such damages shall ~~be-ordered-paid-as-follows:~~

24 ~~a.--If-the-answer-or-finding-pursuant-to-subsection-1,~~
25 ~~paragraph-"b",-is-affirmative,-the-full-amount-of-the-punitive~~
26 ~~or-exemplary-damages-awarded-shall-be-paid-to-the-claimant.~~

27 ~~b.--If-the-answer-or-finding-pursuant-to-subsection-1,~~
28 ~~paragraph-"b",-is-negative,-after-payment-of-all-applicable~~
29 ~~costs-and-fees,-an-amount-not-to-exceed-twenty-five-percent-of~~
30 ~~the-punitive-or-exemplary-damages-awarded-may-be-ordered-paid~~
31 ~~to-the-claimant,-with-the-remainder-of-the-award-to-be-ordered~~
32 ~~paid-into-a-civil-reparations-trust-fund-administered-by-the~~
33 ~~state-court-administrator.--Funds-placed-in-the-civil~~
34 ~~reparations-trust-shall-be-under-the-control-and-supervision~~
35 ~~of-the-executive-council,-and-shall-be-disbursed-only-for~~

1 purposes-of-indigent-civil-litigation-programs-or-insurance
2 assistance-programs.

3 3.--The-mere-allegation-or-assertion-of-a-claim-for
4 punitive-damages-shall-not-form-the-basis-for-discovery-of-the
5 wealth-or-ability-to-respond-in-damages-on-behalf-of-the-party
6 from-whom-punitive-damages-are-claimed-until-such-time-as-the
7 claimant-has-established-that-sufficient-admissible-evidence
8 exists-to-support-a-prima-facie-case-establishing-the
9 requirements-of-subsection-17-paragraph-"a" not exceed two
10 hundred fifty thousand dollars, except upon a finding of
11 actual malice on the part of the defendant.

12 EXPLANATION

13 This bill relates to an award of punitive or exemplary
14 damages.

15 The bill provides that in a trial of a claim involving a
16 request for punitive or exemplary damages, the court shall
17 instruct the jury to answer special interrogatories, or, if
18 there is no jury, the court shall make findings to include a
19 finding of whether, by a preponderance of clear and convincing
20 evidence, the conduct of the defendant constituted actual
21 malice. In addition, the bill provides that an award of
22 punitive or exemplary damages shall not exceed \$250,000,
23 except upon a finding of actual malice on the part of the
24 defendant.

25
26
27
28
29
30
31
32
33
34
35