

FIRST REGULAR SESSION

HOUSE BILL NO. 1166

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE AUSTIN.

2513H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 537.675, RSMo, and to enact in lieu thereof one new section relating to punitive damage final judgments.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.675, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.675, to read as follows:

537.675. 1. As used in sections 537.675 through 537.693, the following terms mean:

(1) "Annual claims", that period of time commencing on the first day of January of every year after December 31, 2002, and ending on the last day of that calendar year;

(2) "Commission", the labor and industrial relations commission;

(3) "Division", the division of workers' compensation;

(4) "Punitive damage final judgment", an award for punitive damages excluding interest that is no longer subject to review by courts of this state or of the United States;

(5) "Uncompensated tort victim", a person who:

(a) Is a party in a personal injury or wrongful death lawsuit; or is a tort victim whose claim against the tort-feasor has been settled for the policy limits of insurance covering the liability of such tort-feasor and such policy limits are inadequate in light of the nature and extent of damages due to the personal injury or wrongful death;

(b) Unless described in paragraph (a) of this subdivision:

a. Has obtained a final monetary judgment in that lawsuit described in paragraph (a) of this subdivision against a tort-feasor for personal injuries, or wrongful death in a case in which all appeals are final;

b. Has exercised due diligence in enforcing the judgment; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 c. Has not collected the full amount of the judgment;
19 (c) Is not a corporation, company, partnership or other incorporated or unincorporated
20 commercial entity;
21 (d) Is not any entity claiming a right of subrogation;
22 (e) Was not on house arrest and was not confined in any federal, state, regional, county
23 or municipal jail, prison or other correctional facility at the time he or she sustained injury from
24 the tort-feasor;
25 (f) Has not pleaded guilty to or been found guilty of two or more felonies, where such
26 two or more felonies occurred within ten years of the occurrence of the tort in question, and
27 where either of such felonies involved a controlled substance or an act of violence; and
28 (g) Is a resident of the state of Missouri or sustained personal injury or death by a tort
29 which occurred in the state of Missouri.

30 2. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the
31 fund shall not lapse at the end of the biennium as provided in section 33.080.

32 3. Any party receiving a judgment final for purposes of appeal for punitive damages in
33 any case filed in any division of any circuit court of the state of Missouri shall notify the attorney
34 general of the state of Missouri of such award, except for actions claiming improper health care
35 pursuant to chapter 538. The state of Missouri shall have a lien for deposit into the tort victims'
36 compensation fund to the extent of [fifty percent] **the total amount in excess of five hundred**
37 **thousand dollars** of the punitive damage final judgment [which shall attach in any such case
38 after deducting] . **The plaintiff shall collect an amount not to exceed five hundred thousand**
39 **dollars and shall deduct** attorney's fees and expenses **from the amount he or she receives.**
40 **If the punitive damage final judgment does not total an amount in excess of five hundred**
41 **thousand dollars, the plaintiff shall collect the entire amount of the judgment less**
42 **attorney's fees and expenses.** In each **appropriate** case, the attorney general shall serve a lien
43 notice by certified mail or registered mail upon the party or parties against whom the state has
44 a claim for collection of its share of a punitive damage final judgment. On a petition filed by the
45 state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties
46 and enforce the lien. [The lien shall not be satisfied out of any recovery until the attorney's claim
47 for fees and expenses is paid.] The state can file its lien in all **appropriate** cases where punitive
48 damages are awarded upon the entry of the judgment final for purposes of appeal. The state
49 cannot enforce its lien until there is a punitive damage final judgment. Cases resolved by
50 arbitration, mediation or compromise settlement prior to a punitive damage final judgment are
51 exempt from the provisions of this section. Nothing in this section shall hinder or in any way
52 affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim
53 or litigation on any terms and at any time the parties desire.

54 4. The state of Missouri shall have no interest in or right to intervene at any stage of any
55 judicial proceeding pursuant to this section, except to enforce its lien rights as provided in
56 subsection 3 of this section.

57 5. Twenty-six percent of all payments deposited into the tort victims' compensation fund
58 and all interest accruing on the principal regardless of source or designation shall be transferred
59 to the basic civil legal services fund established in section 477.650. Moneys in the tort victims'
60 compensation fund shall not be used to pay any portion of a refund mandated by article X,
61 section 18 of the constitution.

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