

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 491

Introduced by Wayne, 13.

Read first time January 22, 2019

Committee:

- 1 A BILL FOR AN ACT relating to courts; to state findings; to define terms;
- 2 to authorize punitive damages as prescribed; and to require punitive
- 3 damages to be appropriated for the use of the common schools.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

2 (1) Article VII, section 5, of the Constitution of Nebraska provides
3 in part that "all fines, penalties, and license money arising under the
4 general laws of the state . . . shall belong and be paid over to the
5 counties respectively where the same may be levied or imposed";

6 (2) Article VII, section 5, of the Constitution further provides
7 that "All such fines, penalties, and license money shall be appropriated
8 exclusively to the use and support of the common schools in the
9 respective subdivisions where the same accrue . . .";

10 (3) Punitive damages are in the nature of fines, penalties, and
11 license money;

12 (4) Punitive damages are awarded both to deter the defendant and
13 others from conduct similar to the conduct that gave rise to the lawsuit,
14 and to punish the defendant. Punitive damages are appropriate in many
15 situations where compensatory damages would be inadequate because the
16 defendant acted in a truly egregious fashion; and

17 (5) Additional funds available for the public schools could be used
18 to provide property tax relief.

19 Sec. 2. For the purposes of sections 1 to 7 of this act:

20 (1) Compensatory damages means damages intended to make good the
21 loss of an injured party and no more. The term includes general and
22 special damages and does not include nominal, exemplary, or punitive
23 damages.

24 (2) Nominal damages are damages that are not designed to compensate
25 a plaintiff and are less than one thousand dollars.

26 (3) Punitive damages means damages awarded against a party in a
27 civil action based on aggravating circumstances and to penalize a
28 defendant and to provide additional deterrence and discourage similar
29 conduct in the future. Punitive damages do not include compensatory
30 damages or nominal damages.

31 Sec. 3. A court may award punitive damages when the defendant has

1 displayed actual intent to cause harm or causes an injury through action
2 taken in reckless disregard for the lives and safety of others. Punitive
3 damages may be awarded to punish the defendant and provide retribution,
4 to act as a deterrent to the defendant and others inclined to behave in a
5 similar manner, and to demonstrate the court's disapproval of such
6 conduct.

7 Sec. 4. (1) An award of punitive damages must be specifically
8 prayed for in the complaint.

9 (2) Upon an award of punitive damages, the court shall notify the
10 county. The county attorney may become a party solely to protect the
11 interests of the common schools in such damages.

12 Sec. 5. Unless waived by all parties, whether to award punitive
13 damages, and the amount thereof, shall be determined by the trier of
14 fact.

15 Sec. 6. Any award of punitive damages shall be remitted to the
16 State Treasurer for distribution in accordance with Article VII, section
17 5, of the Constitution of Nebraska.

18 Sec. 7. The provisions of sections 1 to 6 of this act are
19 cumulative with and supplemental to any other laws of this state which
20 authorize punitive damages.