

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

State of Arkansas
91st General Assembly
Regular Session, 2017

SJR 13

By: Senators Maloch, B. King

By: Representative Gazaway

SENATE JOINT RESOLUTION

AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING AWARDS IN CIVIL ACTIONS; PROVIDING THAT A PARTY IN A CIVIL ACTION IS ENTITLED TO REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES AND LITIGATION COSTS IN CERTAIN INSTANCES; AND EMPOWERING THE GENERAL ASSEMBLY TO ENACT LAWS SETTING THE AMOUNT OF PUNITIVE DAMAGES THAT MAY BE AWARDED IN A CIVIL ACTION SEEKING RECOVERY FOR INJURIES RESULTING IN DEATH OR FOR INJURIES TO PERSONS OR PROPERTY.

Subtitle

AN AMENDMENT TO THE ARKANSAS CONSTITUTION
CONCERNING AWARDS IN CIVIL ACTIONS.

BE IT RESOLVED BY THE SENATE OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at the election adopt the amendment, the amendment shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. Arkansas Constitution, Article 2, is amended to add an



additional section to read as follows:

§ 30. Entitlement to reimbursement of reasonable attorney’s fees and litigation costs.

A party to a civil action is entitled to reimbursement of reasonable attorney’s fees and litigation costs from an opposing party who interposes a claim or defense that is:

- (1) Not well grounded in law or fact;
- (2) Not warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; or
- (3) Interposed for an improper purpose if the opposing party refuses to withdraw the claim or defense following a reasonable opportunity to do so.

SECTION 2. Arkansas Constitution, Article 5, § 32, is amended to read as follows:

§ 32. Workmen’s Compensation Laws – Actions for personal injuries.

(a) The General Assembly shall have power to enact laws:

- (1) ~~prescribing~~ Prescribing the amount of compensation to be paid by employers for injuries to or death of employees, and to whom said payment shall be made;
- (2) ~~It shall have power to provide~~ Providing the means, methods, and forum for adjudicating claims arising under ~~said laws~~ subsection (a)(1) of this section, and for securing payment of same; and
- (3)(A) ~~Setting~~ Setting the amount of punitive damages that may be awarded against each defendant found culpable of conduct deemed punishable in a civil action seeking recovery for injuries resulting in death or for injuries to persons or property.

(B) The amount of punitive damages set under subdivision (a)(3)(A) of this section shall be at least five (5) times the award of compensatory damages against all defendants.

(C) Subdivision (a)(3)(A) of this section does not apply if a limitation is imposed on the amount recoverable for compensatory damages in a civil action seeking recovery for injuries resulting in death or for injuries to persons or property.

(b) ~~Provided, that otherwise~~ Except as provided in subsection (a) of this section, no law shall be enacted limiting the amount to be recovered for

injuries resulting in death or for injuries to persons or property; and in case of death from such injuries the right of action shall survive, and the General Assembly shall prescribe for whose benefit such action shall be prosecuted.

SECTION 3. BALLOT TITLE AND POPULAR NAME. When this proposed amendment is submitted to the electors of this state on the general election ballot:

(1) The title of this joint resolution shall be the ballot title; and

(2) The popular name shall be "An Amendment to the Arkansas Constitution Concerning Awards in Civil Actions".