

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4043

BY DELEGATE KEATON

[Introduced January 12, 2022; 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 punitive damages against nonprofit organizations.

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

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

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

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

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

18 (c) The amount of punitive damages that may be awarded in a civil action may not exceed
19 the greater of four times the amount of compensatory damages or \$500,000, whichever is greater.

20 (d) No award of punitive damages in excess of \$25,000 shall be awarded against a 501c3
21 nonprofit organization or agent or board member thereof unless the plaintiff in such action proves

22 actual malice.

NOTE: The purpose of this bill is to require proof of actual malice for an award of punitive damages against 501c nonprofit organizations.

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