

SENATE BILL 696

By Finney L

AN ACT to amend Tennessee Code Annotated, Title 4; Title 20; Title 22; Title 23; Title 29; Title 33; Title 36; Title 39; Title 45; Title 47; Title 49; Title 65; Title 66; Title 68; Title 70 and Title 71, relative to punitive damages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, is amended by adding the following new part thereto:

29-34-401.

For purposes of determining the reasonableness of attorney's fees when punitive damages are awarded, attorney's fees of up to one-third (1/3) the amount of a punitive damages award shall be deemed reasonable.

29-34-402.

Notwithstanding any law to the contrary, if a person, other than the state or a local governmental entity, receives an award of punitive damages in a civil action, the court shall require that fifty percent (50%) of the award be deposited in the civil reparations trust fund created pursuant to § 29-34-406.

29-34-403.

(a) When determining the amount that shall be deposited in the civil reparations trust fund pursuant to § 29-34-402, the attorney fees and costs incurred in obtaining a judgment for punitive damages shall be considered to have been incurred by the state and the injured party equally, and the state's share shall be subtracted from the total amount due to be deposited pursuant to § 29-34-402. The state shall be liable to pay its proportionate share of attorney fees only to the extent it receives payment of a punitive damages award.

(b) If the court awards attorney fees and costs to the injured party as a direct result of a punitive damage award, the state shall have an equal corresponding credit. This credit may be applied as an offset against the amount of attorney fees and costs charged to the state for obtaining the punitive damage judgment.

29-34-404.

(a) The court shall notify the attorney general and reporter of any award of punitive damages within thirty (30) days of the date of entry of a final judgment of such an award.

(b) The attorney general and reporter shall have all rights due a judgment creditor to collect the amount of a punitive damage judgment awarded to the state pursuant to § 29-34-402 until such judgment is fully satisfied.

(c) Unless all affected parties and the state expressly agree otherwise, collection of a punitive damages judgment shall be deferred until all other judgments in the civil action have been fully paid.

29-34-405.

Any partial payments of an award of punitive damages made by a defendant shall be distributed equally between the state and injured party.

29-34-406.

(a) There is created in the state treasury a fund to be known as the civil reparations trust fund. All money in such fund shall be used to provide grants to the administrative office of the courts for purposes of implementing indigent civil litigation programs. Moneys in the fund shall not revert to the general fund of the state, but shall remain available to be used as provided for in this subsection (a).

(b) Interest accruing on investments and deposits of the civil reparations trust fund shall be credited to such account, shall not revert to the general fund, and shall be carried forward into each subsequent fiscal year.

(c) Moneys in the civil reparations trust fund account shall be invested by the state treasurer in accordance with § 9-4-603.

29-34-407.

(a) This part shall apply to any award of punitive damages made in any civil action filed on or after July 1, 2011.

(b) No provision of law allowing a party to recover punitive damages in a civil action shall be construed as eliminating or reducing the requirement of § 29-34-402.

29-34-408.

Nothing in this part shall be construed as granting the state the right to file or join in a civil action as a party in interest.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.