

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 31**

Introduced by Wayne, 13.

Read first time January 07, 2021

Committee: Judiciary

- 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 may accrue . . .";

10          (3) Punitive damages are in the nature of fines or penalties;

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

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

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

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

22          (2) Nominal damages are damages that are not designed to compensate  
23 an injured party and are less than one thousand dollars; and

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

29          Sec. 3. In any civil action, a court may award punitive damages  
30 when the defendant has displayed actual intent to cause harm or causes an  
31 injury through action taken in reckless disregard for the lives and

1 safety of others. Punitive damages may be awarded to punish the defendant  
2 and provide retribution, to act as a deterrent to the defendant and  
3 others inclined to behave in a similar manner, and to demonstrate the  
4 court's disapproval of such conduct.

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

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

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

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

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