

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

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017

HJR 1019

4
5 By: Representative Gazaway
6 By: Senators Maloch, B. King

7
8 **HOUSE JOINT RESOLUTION**

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

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20 **Subtitle**

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

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

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

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



1 additional section to read as follows:

2 § 30. Entitlement to reimbursement of reasonable attorney's fees and
3 litigation costs.

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

7 (1) Not well grounded in law or fact;

8 (2) Not warranted by existing law or a good-faith argument for
9 the extension, modification, or reversal of existing law; or

10 (3) Interposed for an improper purpose if the opposing party
11 refuses to withdraw the claim or defense following a reasonable opportunity
12 to do so.

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

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

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

18 (1) ~~prescribing~~ Prescribing the amount of compensation to be
19 paid by employers for injuries to or death of employees, and to whom said
20 payment shall be made;

21 (2) ~~It shall have power to provide~~ Providing the means, methods,
22 and forum for adjudicating claims arising under ~~said laws~~ subsection (a)(1)
23 of this section, and for securing payment of same; and

24 (3)(A) Setting the amount of punitive damages that may be
25 awarded against each defendant found culpable of conduct deemed punishable in
26 a civil action seeking recovery for injuries resulting in death or for
27 injuries to persons or property.

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

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

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

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

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

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

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

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