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HOUSE BILL NO. 1069

Offered January 25, 1994

A *BILL* to amend the Code of Virginia by adding a section numbered 8.01-38.2, relating to determination of the amount of punitive damages.

Patrons—Howell, Cantor, Davies, Forbes, Griffith, Johnson, McClure, Mims and Murphy; Senators: Calhoun, Chichester and Stosch

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 8.01-38.2 as follows:**

§ 8.01-38.2. Determination of amount of punitive damages.

A. *In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including:*

1. *The severity of the harm caused by the defendant;*

2. *The extent to which the plaintiff's own conduct contributed to the harm;*

3. *The duration of the conduct, the defendant's awareness, and any concealment by the defendant;*

4. *The profitability of the conduct to the defendant; and*

5. *At the request of the defendant, any criminal or civil penalties assessed against the defendant as a result of the conduct complained of by the plaintiff.*

B. *In determining the amount of punitive damages, the trier of fact shall not consider the wealth or financial condition of the defendant, but such evidence may be considered by the trial and appellate courts in determining whether the award is excessive.*

C. *If a verdict is rendered awarding punitive damages, the trial court shall carefully review the decision of the trier of fact, considering all relevant evidence, including the factors identified in subsection A to ensure that the award does not exceed an amount necessary for the sake of example and to punish the defendant. Trial courts are to reflect in the record their reasons for interfering with a jury verdict, or refusing to do so, on grounds of excessiveness of damages.*

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