

1995 SESSION

INTRODUCED

LD3959296

HOUSE BILL NO. 1071

Offered January 25, 1994

A BILL to amend the Code of Virginia by adding a section numbered 8.01-38.2, relating to the proof required for an award 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. Proof required for award of punitive damages.

A. In any civil action, a plaintiff may seek punitive damages, in addition to actual damages, where it is proven by clear and convincing evidence that the defendant acted with actual malice toward the plaintiff or acted under circumstances amounting to a willful and conscious disregard of the plaintiff's rights or safety. This burden of proof may not be satisfied by proof of any degree of negligence, including gross negligence.

B. As used in subsection A, "clear and convincing evidence" means evidence which leaves no serious or substantial doubt about the correctness or conclusions drawn from the evidence. It is more than a preponderance of the evidence, but less than proof beyond a reasonable doubt.

2. Nothing contained in this act shall be construed as creating any claim for punitive damages which does not exist under current law.

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