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| LFC Requester: | Chavez, Felix |
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/27/25 *Check all that apply:*
Bill Number: SB 132 Original Correction
 Amendment Substitute

Sponsor: Sen. Pat Woods **Agency Name and Code:** AOC 218
Short Title: Limit Damages in Legal Action **Person Writing:** Kathleen Sabo
Title: Limit Damages in Legal Action **Phone:** 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| None | None | Rec. | General |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------|---------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| Unknown | Unknown | Unknown | Rec. | General |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|---------|---------|---------|-------------------|---------------------------|---------------|
| Total | Unknown | Unknown | Unknown | Unknown | Rec. | General |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 132 enacts a new statutory section of Chapter 39 (governing judgments, costs and appeals), Article 1 (governing judgments) NMSA 1978, to limit the amount of punitive damages that can be awarded to the prevailing party in an action in which compensatory damages are awarded, to the amount of the compensatory award. Additionally, SB 132 permits a prevailing party to be awarded the costs for reasonable attorney fees, in an action in which punitive damages are awarded to the prevailing party.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced civil actions, as well as challenges to the constitutionality of the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) To recover on a claim for punitive damages, New Mexico law requires plaintiffs to prove the defendant's conduct rose to the level of willful, wanton, malicious, reckless, oppressive, or fraudulent conduct, and that the defendant possessed an evil motive, culpable mental state, or indifference or conscious disregard for plaintiff's safety. *See Clay v. Ferrellgas*, 1994-NMSC-080, ¶12, 118 N.M. 266; *Paiz v. State Farm Fire and Casualty Co.*, 1994-NMSC-079, ¶25, 118 N.M. 203; *Grassie v. Roswell Hosp. Corp.*, 2011-NMCA-024, ¶33, 150 N.M. 283.

There is not a statutory limit on punitive damages. *See, e.g., Aken v. Plains Elec. Generation & Transmission Co-op, Inc.*, 2002-NMSC-021, ¶ 17, 132 N.M. 401, 407, 49 P.3d 662, 668 (“In New Mexico, the rule has been that a punitive damages award will be upheld if substantial evidence supports the jury's finding.”).

See, Transportation Law – 2023 – New Mexico, Alfa International,

<https://www.alfainternational.com/compendium/transportation-2023law/new-mexico/>

- 2) It has been posited that limiting punitive damages may result in higher and more variable compensatory damage awards in situations where a punitive damage award is artificially limited.

Caps on punitive damage awards are widely perceived to be the most important of all legislative tort reforms (Weiler, 1991), yet they are also highly controversial. Galanter and Luban (1993) argue, for example, that punitive damages should be linked to the heinousness of the wrongful act and have nothing to do with the amount of compensatory damages awarded to an injured party. Thus, they oppose proposals that explicitly cap the punitive award at some multiple of the compensatory award. Owen (1994) suggests that such arbitrary methods of

measurement deprive the decision maker of the ability to tailor the punishment to fit the particular wrongdoer and the wrongful act. Reform proponents, on the other hand, claim that these caps will reduce the size, variability, and unpredictability of punitive damage awards.

See *The Effects of Limiting Punitive Damage Awards*, June 2001

<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1162&context=psychfacpub#:~:text=Some%20states%20impose%20an%20absolute,impose%20both%20kinds%20of%20limits.>

2. As traditionally conceived, punitive damages were both individualized and retributive. They punished a tortfeasor for intentional conduct directed toward an individual plaintiff. Torts giving rise to punitive damages were personal in nature - libel/slander, assault, malicious prosecution, false imprisonment, and intentional interference with property.

Over time, the class of torts for which punitive damages could be awarded expanded, allowing punitive damages in cases of negligence, fraud, and products liability. Commentators have observed that awarding punitive damages in cases of reckless behavior and strict product liability (i.e., cases where the defendant did not act intentionally or willfully) are directed, not at punishing intentional misconduct, but rather at reducing conduct that poses a risk to the larger society.⁴ In this sense, punitive damages, when used to deter negligence, vindicate society's interests, rather than those of the individual plaintiff.

With the increase in scope of claims for which punitive damages could be awarded, as well as larger verdicts, punitive damages awards have come under scrutiny. Scholars differ in their assessment as to whether punitive damages have become too frequent and excessive. Nevertheless, in response to a general perception that punitive damages should be constrained, state legislatures began imposing limits on punitive damages, some by imposing flat caps, some by limiting such damages to a multiple of compensatory damages, and others by requiring a higher evidentiary showing.

Courts and scholars typically agree that punitive damages serve two distinct purposes: punishment and deterrence.

See *WG8 Purpose of Punitive Damages*, 2011

https://thesedonaconference.org/sites/default/files/commentary_drafts/Drafts%25207_12_11.pdf

4. For a 2025 survey of state damage caps, including the District of Columbia, See, *Damage Caps by State: Personal Injury and Medical Malpractice Claims*

<https://1800lionlaw.com/damage-caps-by-state-personal-injury-med-mal/>

5. It can be anticipated that the SB 132 cap on punitive damages may be challenged as unconstitutional under one or more of the following arguments:

- Violates the right to a jury trial
- Violates the separation of powers principle
- Violates the prohibition against taking property without just compensation
- Violates the due process and equal protection guarantees

See, *Punitive Damage Caps: Constitutional?*, 2012

<https://trial.com/wp-content/uploads/2020/03/Punitive-Damage-Caps-Constitutional-NY-2012.pdf>

But see, *Siebert v. Okun*, 485 P.3d 1265, NO. S-1-SC-37231(2021)

<https://statecourtreport.org/sites/default/files/fastcase/converted/Siebert%20v.%20%20Okun%2C%20N.M.%20NO.%20S-1-SC-37231.pdf> and New Mexico Supreme Court Upholds Damages Cap in State’s Medical Malpractice Law, March 15, 2021, <https://ladaily.com/new-mexico-supreme-court-upholds-damages-cap-in-states-medical-malpractice-law/> .

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS