

SENATE BILL 871

D3
HB 1099/25 – JUD

6lr3488

By: **Senator Smith**

Introduced and read first time: February 6, 2026

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Punitive Damage Awards – Surcharge**

3 FOR the purpose of providing that punitive damages may be awarded in a civil action only
4 if the plaintiff proves by clear and convincing evidence that the defendant acted with
5 gross negligence; requiring the State Court Administrator to assess a certain
6 surcharge on a defendant against whom a judgment for punitive damages is entered;
7 prohibiting a jury from being informed of the surcharge on punitive damages that a
8 defendant is required to pay; requiring the surcharge to be assessed at a certain time;
9 requiring the Administrator to deposit money collected from the surcharge into the
10 Blueprint for Maryland's Future Fund; and generally relating to punitive damage
11 awards.

12 BY adding to
13 Article – Courts and Judicial Proceedings
14 Section 11–113
15 Annotated Code of Maryland
16 (2020 Replacement Volume and 2025 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Education
19 Section 5–206(a) and (b)
20 Annotated Code of Maryland
21 (2025 Replacement Volume and 2025 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Education
24 Section 5–206(f)
25 Annotated Code of Maryland
26 (2025 Replacement Volume and 2025 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

11–113.

(A) IN THIS SECTION, “GROSS NEGLIGENCE” MEANS DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS, INCLUDING THE PUBLIC AT LARGE, THAT:

**(1) THE ACTOR KNOWS OR SHOULD KNOW IS LIKELY TO CAUSE HARM;
AND**

(2) IS CHARACTERIZED BY:

(I) A FAILURE TO EXERCISE EVEN SLIGHT CARE;

(II) WILLFUL, WANTON, OR OUTRAGEOUS MISCONDUCT;

(III) A PATTERN OF REPEATED MISCONDUCT;

(IV) MALICIOUS, OPPRESSIVE, OR FRAUDULENT INTENT;

**(V) ACTS OR OMISSIONS THAT CREATE A HIGH DEGREE OF RISK
OR HARM TO OTHERS; OR**

**(VI) CONDUCT THAT DEMONSTRATES INDIFFERENCE TO LEGAL
OBLIGATIONS OR THE CONSEQUENCES OF MISCONDUCT.**

**(B) PUNITIVE DAMAGES MAY BE AWARDED IN A CIVIL ACTION ALLEGING
NEGLIGENCE ONLY IF THE PLAINTIFF PROVES BY CLEAR AND CONVINCING
EVIDENCE THAT THE DEFENDANT ACTED WITH GROSS NEGLIGENCE.**

**(C) THE STATE COURT ADMINISTRATOR SHALL ASSESS A SURCHARGE ON
PUNITIVE DAMAGES IN AN AMOUNT EQUAL TO 50% OF AN AWARD OF PUNITIVE
DAMAGES, WHICH SHALL BE:**

**(1) PAID BY THE DEFENDANT AGAINST WHOM THE JUDGMENT FOR
PUNITIVE DAMAGES IS ENTERED; AND**

**(2) DEPOSITED INTO THE BLUEPRINT FOR MARYLAND’S FUTURE
FUND UNDER § 5–206 OF THE EDUCATION ARTICLE.**

**(D) (1) THE SURCHARGE ON PUNITIVE DAMAGES UNDER SUBSECTION (C)
OF THIS SECTION:**

(I) IS AN ADDITIONAL PAYMENT THAT A DEFENDANT SHALL MAKE TO THE STATE THAT MAY NOT IN ANY WAY IMPACT THE TOTAL AMOUNT OF PUNITIVE DAMAGES A DEFENDANT IS ORDERED TO PAY A PLAINTIFF; AND

(II) MAY NOT BE CONSTRUED TO PENALIZE A PLAINTIFF WHO HAS BEEN AWARDED PUNITIVE DAMAGES.

(2) A JURY MAY NOT BE INFORMED OF THE SURCHARGE ON PUNITIVE DAMAGES THAT A DEFENDANT IS REQUIRED TO PAY UNDER SUBSECTION (C) OF THIS SECTION.

(3) THE TOTAL AMOUNT OF THE SURCHARGE ON A PUNITIVE DAMAGES AWARD THAT A DEFENDANT IS REQUIRED TO PAY SHALL BE ASSESSED AT THE CONCLUSION OF ALL PROCEEDINGS RELATING TO THE CIVIL ACTION.

Article – Education

5–206.

(a) In this section, “Fund” means the Blueprint for Maryland’s Future Fund.

(b) There is the Blueprint for Maryland’s Future Fund.

(f) The Fund consists of:

(1) Revenue distributed to the Fund under § 11–113 OF THE COURTS ARTICLE, Title 9, Subtitles 1D and 1E of the State Government Article, and §§ 2–4A–02, 2–605.1, and 2–1303 of the Tax – General Article;

(2) Money appropriated in the State budget for the Fund;

(3) Interest earned by the Academic Excellence Fund established under § 6–1105 of this article; and

(4) Any other money from any other source accepted for the benefit of the Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act be applied and interpreted to abrogate the holding establishing the punitive damages criteria in *Owens–Illinois, Inc. v. Zenobia*, 325 Md. 420 (1992).

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action for punitive damages filed before the effective date of this Act.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2026.