



Sheppard Pratt

Written Testimony – Damian Lang

House Bill 1099 – Civil Actions – Punitive Damages Awards - Surcharges

House Judiciary Committee

March 5, 2025

Chair Clippinger, Madam Vice Chair, and members of the House Judiciary Committee, on behalf of Sheppard Pratt, the largest private nonprofit provider of behavioral health services in the country, I submit this testimony in strong opposition to House Bill 1099. This legislation proposes a significant and unprecedented change in Maryland's civil liability system by altering the standard for punitive damages and imposing a surcharge on such awards, diverting these funds to the Blueprint for Maryland's Future.

Key Concerns:

1. HB 1099 Constitutes an Unconstitutional Tax on the Judicial Process

This bill raises serious constitutional concerns. By directing half of all punitive damages awarded by a jury to the state, the legislation effectively transforms the civil justice system into a revenue-generating mechanism for the government. This structure could be challenged as an unconstitutional tax on litigation, as it diverts private legal awards for public use in a manner that undermines the very purpose of punitive damages.

2. Undermining the Intent of Punitive Damages

Punitive damages are intended to punish egregious misconduct and deter future wrongdoing by defendants. However, by diverting 50% of the award to the state, HB 1099 reduces the deterrent impact on defendants and diminishes the compensation available to plaintiffs. The practical effect is that a jury's determination of an appropriate punitive measure is arbitrarily split, reducing the plaintiff's recovery and potentially disincentivizing valid claims. This amounts to executive overreach into the judicial process, interfering with the role of juries and judges.

3. Creating Confusion and Prioritization Issues in Collection

This legislation fails to provide clarity on how damages would be allocated when a defendant lacks the financial resources to satisfy both the punitive damages award and the surcharge. If a

defendant is only able to pay a portion of the judgment, who collects first—the plaintiff or the state? If the state claims its portion first, the plaintiff could be left with nothing, completely nullifying the jury's intent in awarding punitive damages. Conversely, if plaintiffs receive full payment first, the state may never collect, undermining the bill's stated purpose. This creates a chaotic and unfair legal landscape.

4. Harm to Healthcare Providers and the Broader Business Community

While Sheppard Pratt does not anticipate frequent exposure to punitive damages claims, we are concerned about the broader implications of lowering the threshold for punitive damages from "actual malice" to "gross negligence." This change substantially increases liability risks for healthcare providers, businesses, and nonprofit organizations that operate in complex and high-stakes environments. Such a significant departure from established legal standards exposes employers, service providers, and professionals to increased litigation and financial liability.

5. Lack of Precedent and Potential Negative Economic Consequences

This proposal is without precedent in Maryland's legal system and deviates from how punitive damages are handled in nearly every other jurisdiction. Maryland currently does not impose caps on punitive damages, meaning this bill could lead to disproportionate financial burdens on defendants, particularly small businesses and nonprofit organizations. Increased exposure to punitive damages could discourage investment, raise insurance premiums, and ultimately drive businesses and healthcare providers out of the state.

HB 1099 represents a dangerous shift in Maryland's civil liability landscape. It raises constitutional concerns, distorts the purpose of punitive damages, creates legal uncertainties, and threatens economic stability. For these reasons, we urge the committee to issue an unfavorable report on HB 1099.