

CAPITOL REPORT
Senator Luann Ridgeway
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Tort Reform Update

Legislation to reform how lawsuits are filed and conducted in Missouri was heard in the Senate Judiciary Committee this week. The bill has already been passed by the Missouri House.

There are a few hot-button issues that received the most debate in committee. These are:

- 1) Joint and Several Liability—This is a legal means to get one defendant who has money to pay for the damage done by a co-defendant who is broke. This probably doesn't sound fair to you.

The Missouri House agreed. They abolished joint and several liability. Many other states, including Kansas, have already abolished joint and several liability. The Missouri Senate may not be willing to totally abolish joint and several. I tend to agree with the House position but will continue to listen to all the evidence.

- 2) Venue—This governs the location where lawsuits can be brought. Currently, they can be brought where the incident giving rise to the lawsuit occurred or where any defendant resides or where any defendant can be found. The House version changes this so you can only bring the lawsuit where the incident occurred or where all parties to the lawsuit agree it should be heard.

Why should you care about venue? It is a well-documented fact that juries in St. Louis and Kansas City give much higher awards to plaintiffs than do other jurisdictions in the state. Our current venue statutes make it easy to get cases filed in the cities, even if the accident occurred in rural Missouri. I don't think the Senate will make many changes to the House version concerning venue. However, it is too early to tell.

- 3) Cap On Non-Economic Damages—Due to a Missouri court ruling, our state virtually has no cap on non-economic damage awards. There are basically three types of damages a plaintiff can be awarded in a lawsuit. First are compensatory

damages. These are the damages you get to pay for all your past and future medical care, all past and future prescription drug care, all past and future costs for assistive care or vocational retraining, all your past and future wage loss or other financial loss incurred as a result of the incident. There is no limit on the amount of compensatory damages you can receive.

The second type of damages is punitive damages. These damages are designed to economically punish the defendant for wrongdoing. Punitive damages are rarely awarded in Missouri.

The third type of damages is non-economic damages. This is the type of damages that is the subject of some controversy in current legislation. Non-economic damages are damages awarded on top of, or in addition to, all the compensatory damages I describe above. An analogy to help you understand the difference between compensatory and non-compensatory damages is this: compensatory is what makes up the damage “cake.” Non-compensatory damages are the icing on the cake. After juries reimburse you for everything they think you might have lost in the past or may lose in the future due to the defendant’s negligence (compensatory damage), the jury may also decide to give you more money merely because they feel sorry for you and want to give you more money that’s not tied to any actual damage. These are non-economic damages. The House bill would place a limit of \$250,000 on non-economic damages. The Senate will debate increasing the amount of the limit. But it is certain that a new limit will be imposed.

Lawsuit reform is necessary to help keep doctors in Missouri and preserve patient choices. It is also necessary to help keep jobs in Missouri. Our laws have gotten out of step with that of many other states which has caused doctors and jobs to flee our state. We are in a crisis and reforms must be passed.

The Senate Judiciary Committee will amend and vote on the tort reform bill next Monday evening. I expect it will be on the Senate floor for debate by the full Senate before March 17th.

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