

(d) Is not any entity claiming a right of subrogation;

(e) Was not on house arrest and was not confined in any federal, state, regional, county or municipal jail, prison or other correctional facility at the time he or she sustained injury from the tort-feasor;

(f) Has not pleaded guilty to or been found guilty of two or more felonies, where such two or more felonies occurred within ten years of the occurrence of the tort in question, and where either of such felonies involved a controlled substance or an act of violence; and

(g) Is a resident of the state of Missouri or sustained personal injury or death by a tort which occurred in the state of Missouri.

2. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the fund shall not lapse at the end of the biennium as provided in section 33.080, RSMo.

3. Any party receiving a judgment final for purposes of appeal for punitive damages in any case filed in any division of any circuit court of the state of Missouri shall notify the attorney general of the state of Missouri of such award, except for actions claiming improper health care pursuant to chapter 538, RSMo. The state of Missouri shall have a lien for deposit into the tort victims' compensation fund to the extent of fifty percent of the punitive damage final judgment which shall attach in any such case after deducting attorney's fees and expenses. In each case, the attorney general shall serve a lien notice by certified mail or registered mail upon the party or parties against whom the state has a claim for collection of its share of a punitive damage final judgment. On a petition filed by the state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties and enforce the lien. The lien shall not be satisfied out of any recovery until the attorney's claim for fees and expenses is paid. The state can file its lien in all cases where punitive damages are awarded upon the entry of the judgment final for purposes of appeal. The state cannot enforce its lien until there is a punitive damage final judgment. Cases resolved by arbitration, mediation or compromise settlement prior to a punitive damage final judgment are exempt from the provisions of this section. Nothing in this section shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim or litigation on any terms and at any time the parties desire.

4. The state of Missouri shall have no interest in or right to intervene at any stage of any judicial proceeding pursuant to this section, except to enforce its lien rights as provided in subsection 3 of this section.

5. Twenty-six percent of all payments deposited into the tort victims' compensation fund, all interest accruing on the principal regardless of source or designation, and any moneys remaining in the legal services for low-income people fund as of August 28, 2008, shall be transferred to the basic civil legal services fund established in section 477.650, RSMo. Moneys in the tort victims' compensation fund shall not be used to pay any portion of a refund mandated by article X, section 18 of the constitution.

(L. 1987 H.B. 700 § 40, A.L. 1996 S.B. 869, A.L. 2001 H.B. 107, A.L. 2008 S.B. 1016)

(2002) Provision permitting state to assert lien on 50% of final judgment for punitive damages does not violate the excessive fine provision of the Eighth Amendment, the Due Process Clause of the Fourteenth Amendment, or the takings clause of the Fifth Amendment. *Hoskins v. Business Men's Assurance*, 79 S.W.3d 901 (Mo.banc).