

BILL ANALYSIS

Senate Research Center
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S.B. 735
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1888, the Texas Supreme Court determined in *Young v. Kuhn*, 9 S.W. 860, 862 (Tex. 1888), that the injury inflicted, rather than the defendant's ability to pay, was the relevant consideration for a jury tasked with assessing exemplary (sometimes called "punitive") damages.

In *Lunsford v. Morris*, 746 S.W.2d 471 (Tex. 1988), the Court overruled *Young* and permitted the discovery and use of net worth evidence to support a claim for exemplary damages.

Today, Section 41.011(a), Civil Practice and Remedies Code, codifies the ruling in *Lunsford*, providing that in determining the amount of exemplary damages, the trier of fact "shall" consider (among other things) evidence relating to the defendant's net worth.

S.B. 735 restores the *Young* rule that net worth is not relevant to the issue of exemplary damages.

As proposed, S.B. 735 amends current law relating to the availability and use of certain evidence in connection with an award of exemplary damages.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 41.011, Civil Practice and Remedies Code, to read as follows:

Sec. 41.011. EVIDENCE RELATING TO EXEMPLARY DAMAGES.

SECTION 2. Amends Section 41.011, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Deletes existing Subdivision (6) providing that in determining the amount of exemplary damages, the trier of fact is required to consider evidence, if any, relating to the net worth of the defendant.

Makes nonsubstantive changes.

(c) Provides that evidence of the financial condition or net worth of a party is not relevant for the purposes of supporting a claim for or the amount of exemplary damages.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.