
SENATE BILL 5090

State of Washington

68th Legislature

2023 Regular Session

By Senators Padden and Kuderer

Prefiled 12/22/22.

1 AN ACT Relating to tort actions; amending RCW 4.24.005; adding
2 new sections to chapter 4.24 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.24.005 and 1987 c 212 s 1601 are each amended to
5 read as follows:

6 (1) Any party charged with the payment of attorney's fees in
7 addition to damages in any tort action may petition the court not
8 later than ~~((forty-five))~~ 45 days of receipt of a final billing or
9 accounting for a determination of the reasonableness of that party's
10 attorneys' fees. The court shall make such a determination and shall
11 take into consideration the following:

12 ~~((1))~~ (a) The time and labor required, the novelty and
13 difficulty of the questions involved, and the skill requisite to
14 perform the legal service properly;

15 ~~((2))~~ (b) The likelihood, if apparent to the client, that the
16 acceptance of the particular employment will preclude other
17 employment by the lawyer;

18 ~~((3))~~ (c) The fee customarily charged in the locality for
19 similar legal services;

20 ~~((4))~~ (d) The amount involved and the results obtained;

1 ~~((5))~~ (e) The time limitations imposed by the client or by the
2 circumstances;

3 ~~((6))~~ (f) The nature and length of the professional
4 relationship with the client;

5 ~~((7))~~ (g) The experience, reputation, and ability of the lawyer
6 or lawyers performing the services;

7 ~~((8))~~ (h) Whether the fee is fixed or contingent;

8 ~~((9))~~ (i) Whether the fixed or contingent fee agreement was in
9 writing and whether the client was aware of his or her right to
10 petition the court under this section; and

11 ~~((10))~~ (j) The terms of the fee agreement.

12 (2) In any tort action arising under Washington law brought on
13 behalf of a class in which a common fund is sought as damages, the
14 court's decision on class certification and appointment of class
15 counsel must include establishing the percentage of the sought-for
16 common fund recovery to be paid to class counsel as a fee, as one
17 factor in determining that counsel will provide competent and
18 adequate representation to the class. If a common fund is created by
19 way of settlement or judgment, the court must award an attorneys' fee
20 under the class certification order, unless the court enters written
21 findings of fact and conclusions of law confirming that changed
22 circumstances justify an adjustment to the award.

23 NEW SECTION. Sec. 2. A new section is added to chapter 4.24 RCW
24 to read as follows:

25 For any statute the violation of which is remediable by an award
26 of statutory damages, a party alleging a violation of the statute
27 thereby alleges injury sufficient to confer standing on that
28 complainant.

29 NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW
30 to read as follows:

31 When a court orders an award of statutory damages, the court
32 shall multiply the statutory award by the percent change in the
33 consumer price index for all urban consumers as published by the
34 United States department of labor, bureau of labor statistics from
35 December 31st of the year in which the statutory damages were awarded
36 through December 31st of the year before the date of the award. This
37 section applies to all final judgments entered on or after the
38 effective date of this section.

1 NEW SECTION. **Sec. 4.** This act applies to all lawsuits pending
2 or filed on or after the effective date of this section.

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