

HOUSE BILL REPORT

HB 2474

As Reported By House Committee On:
Judiciary

Title: An act relating to pro se attorneys' fees in civil actions.

Brief Description: Allowing pro se attorneys' fees in civil actions.

Sponsors: Representative Kastama.

Brief History:

Committee Activity:

Judiciary: 1/27/00, 2/3/00 [DPS].

Brief Summary of Substitute Bill

- Entitles pro se litigants to attorney fees under the statute allowing courts to award such fees when a civil action or defense is frivolous and was brought without cause.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Trudes Hutcheson (786-7384).

Background:

Washington follows the American rule regarding attorney fees. Each party pays his or her own legal fees unless some statute, contract, or equitable basis allows otherwise. One statute allowing attorney fees provides that in any civil action the court may award the prevailing party reasonable expenses and attorney fees if the court finds that the action or defense was frivolous and advanced without reasonable cause.

There is nothing in statute prohibiting Washington courts from awarding attorney fees to non-attorney litigants representing themselves. Some local court rules may provide that in some cases, pro se litigants are not entitled to attorney fees. In certain cases, Washington courts have awarded attorney fees to attorneys who represent themselves. When interpreting attorney fee provisions in certain federal statutes, some federal district courts have held that non-attorney pro se litigants are not eligible for attorney fees.

Summary of Substitute Bill:

The statute allowing for an award of attorney fees for frivolous civil actions is amended. A party representing himself or herself in a civil action is entitled to attorney fees if such fees would have been awarded to a represented party and the court finds that the action or defense was frivolous.

The award must be based on the prevailing local hourly rate charged by attorneys practicing within the area of law that was the subject of the action. The number of hours the party will be compensated for shall be based on the number of hours that an attorney would have needed to accomplish the results obtained.

Substitute Bill Compared to Original Bill: The original bill applied the pro se attorney fees to all civil actions.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The justice system puts pro se litigants at a disadvantage. Pro se litigants are held to the same standard as attorneys in court, so they should be able to get attorney fees. Often people are forced to go pro se, and they should be compensated for their time.

Testimony Against: It is unfair to compensate a pro se litigant but not compensate the actual party who is represented. Attorney fees are usually for fees actually incurred by a party. This will create a financial incentive for people to litigate instead of settle.

Testified: (In support) Representative Kastama, prime sponsor; Dale Washam; Donald Barovic; and Lawrence Hutt.

(Opposed) Kevin Underwood, Washington Collectors Association.