

SENATE BILL REPORT

E2SSB 5155

As Passed Senate, January 19, 2022

Title: An act relating to prejudgment interest.

Brief Description: Concerning prejudgment interest.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kuderer, Wellman, Das and Pedersen).

Brief History:

Committee Activity: Law & Justice: 1/28/21, 2/04/21 [DPS].

Ways & Means: 2/19/21, 2/22/21 [DP2S, DNP, w/oRec].

Floor Activity: Passed Senate: 1/19/22, 31-18.

Brief Summary of Engrossed Second Substitute Bill

- Starts interest running on a judgment entered following trial of the matter and arbitration awards for tortious conduct, other than medical malpractice claims, from the date on which the cause of action accrues for individuals and entities, but not public agencies.
- Starts interest running on a judgment for a medical malpractice claim from the date of entry of judgment.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5155 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

Staff: Tim Ford (786-7423)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5155 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Gildon, Mullet, Muzzall, Rivers and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

Staff: Sarian Scott (786-7729)

Background: Interest on Judgments. Interest on judgments begins to run on date of judgment entry. For the tortious conduct of a public agency, the post judgment interest rate is 2 percent above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for 26 weeks of treasury bills. For the tortious conduct of individuals and entities, the post judgment interest rate is 2 percent above the prime rate, as published by the board of governors of the federal reserve system.

Summary of Engrossed Second Substitute Bill: Interest on judgments for the tortious conduct of individuals and entities, but not public agencies, begins to run from the date on which the cause of action accrues.

In any medical malpractice action interest shall accrue at 2 percentage points above the prime rate. The interest begins to run from the date of entry of the judgment.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Law & Justice): *The committee recommended a different version of the bill than what was heard.* PRO: This is a fairness bill and it simply moves when prejudgment interest attaches for a claim. Medical malpractice claims were not intended to be affected by this bill. Judges could work 24

hours a day and 7 days a week and not be able to climb out of the backlog of jury trial cases that existed prior to, and was made worse by the pandemic. Judges want parties and attorneys to resolve cases if possible without going to trial. This bill will help resolve those cases. Justice delayed is justice denied. Cases will not settle because the interest under current law accrues from the entry of judgment but if the courts never schedule a trial then the defense has no interest in settlement. Some civil cases languish six to ten years in court. This is a thoughtful and modest step. It gives an incentive to resolve claims. It is fair because people who are injured will not have to be burdened by paying for all their costs until they receive a judgment.

CON: Adding another element of damages which applies only to the defendants is unfair and will not unclog the courts. It would apply prejudgment interest to non-economic damages and future damages. Plaintiffs usually take two to three years before they file a lawsuit, and the courts can take many years before they go to trial, so that defendants would be penalized by paying for prejudgment interest for events out of their control. The medical community is facing difficult challenges and this would increase health costs.

Persons Testifying (Law & Justice): PRO: Senator Patty Kuderer, Prime Sponsor; Virginia Parham, Wcan; Colleen Durkin Peterson, Washington State Association for Justice; Catherine Clark, Washington State Association for Justice; Darrell Cochran, Washington State Association for Justice; Rebeccah Graham, Washington State Association for Justice.

CON: Cliff Webster, Liability Reform Coalition; Ryan Beaudoin, Washington Defense Trial Lawyers; Katerina LaMarche, Washington State Medical Association; Zosia Stanley, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We do not have this now. Some 41 states have more substantial provisions than this bill. COVID-19 has put a halt to civil cases. It only applies to verdicts, not settlements.

CON: The date of injury until the claim is years. The defendant has no control of how or when the court will move on their case.

Persons Testifying (Ways & Means): PRO: Larry Shannon, Washington State Association for Justice.

CON: Cliff Webster, Liability Reform Coalition.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.