

SSB 5728 - S AMD 183
By Senator Franklin

WITHDRAWN 03/14/2003

1 On page 11, after line 24, insert the following:

2 "Sec. 408. RCW 7.70.070 and 1975-'76 2nd ex.s. c 56 s 12 are each
3 amended to read as follows:

4 (1) Except as set forth in subsection (2) of this section, the
5 court shall, in any action under this chapter, determine the
6 reasonableness of each party's attorneys' fees. The court shall take
7 into consideration the following:

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

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

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

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

17 ~~((5))~~ (e) The time limitations imposed by the client or by the
18 circumstances;

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

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

23 ~~((8))~~ (h) Whether the fee is fixed or contingent.

24 (2)(a) An attorney representing a person in connection with an
25 action for damages against a health care provider based upon
26 professional negligence shall not collect fees in excess of the
27 following limits:

28 (i) Forty percent of the first fifty thousand dollars recovered;

29 (ii) Thirty-three and one-third percent of the next fifty thousand
30 dollars recovered;

1 (iii) Twenty-five percent of the next five hundred thousand dollars
2 recovered;

3 (iv) Fifteen percent of any amount in which the recovery exceeds
4 six hundred thousand dollars.

5 (b) The limitations in this section apply regardless of whether the
6 recovery is by judgment, settlement, arbitration, mediation, or other
7 form of alternative dispute resolution.

8 (c) If periodic payments are awarded to the plaintiff, the court
9 shall place a total value on these payments and include this amount in
10 computing the total award from which attorneys' fees are calculated
11 under this subsection.

12 (d) For purposes of this subsection, "recovered" means the net sum
13 recovered after deducting any disbursements or costs incurred in
14 connection with prosecution or settlement of the claim. Costs of
15 medical care incurred by the plaintiff and the attorneys' office
16 overhead costs or charges are not deductible disbursements or costs for
17 such purposes.

18 (e) If there is no amount recovered, then subsection (1) of this
19 section applies to attorneys' fees.

20 (3) This section applies to all agreements for attorneys' fees
21 entered into or modified after the effective date of this section."

22 Renumber the following sections consecutively and correct internal
23 references accordingly.

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24 On page 1, line 2 of the title, after "7.70.060," insert
25 "7.70.070,"

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