

Initiative 2023-2024 #171: Disclosure of litigation costs in cases of personal injury and wrongful death

Original Submission

Be it Enacted by the People of the State of Colorado:

SECTION 1. Legislative declaration. (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(a) INDIVIDUALS AND FAMILIES WHO HAVE SUFFERED PERSONAL INJURIES OR A WRONGFUL DEATH OFTEN LACK AN UNDERSTANDING OF THEIR OBLIGATIONS TO PAY COURT COSTS, LITIGATION EXPENSES, AND ATTORNEY FEES FROM THE COMPENSATION AWARDED FOR INJURIES OR WRONGFUL DEATH.

(b) PERSONAL INJURY ATTORNEYS TYPICALLY PROVIDE LEGAL SERVICES TO A CLIENT UNDER A CONTINGENT FEE AGREEMENT WHERE THE ATTORNEY'S FEE IS BASED UPON A PERCENTAGE OF THE MONEY AWARDED TO THE CLIENT.

(c) CLIENTS HAVE LITTLE OR NO CONTROL OVER THE LITIGATION EXPENSES THAT THEY ARE RESPONSIBLE TO PAY, SUCH AS DEPOSITION FEES, EXPERT WITNESS FEES, OR COURT COSTS.

(d) REQUIRING ATTORNEYS TO DISCLOSE TO CLIENTS IN WRITING ALL EXPECTED COSTS OF LITIGATION THAT THE CLIENT IS RESPONSIBLE FOR ALLOWS A CLIENT TO CONSIDER THE TRUE COSTS OF LITIGATION BEFORE ENTERING INTO A CONTINGENT FEE AGREEMENT.

(e) IN ORDER TO RECEIVE FULL AND FAIR COMPENSATION FOR INJURIES OR WRONGFUL DEATH, A CLIENT SHOULD NOT BE LIABLE FOR COURT COSTS AND LITIGATION EXPENSES THAT EXCEED AN ATTORNEY'S ESTIMATE OF THESE TOTAL COSTS AND EXPENSES BY MORE THAN TEN PERCENT.

SECTION 2. In Colorado Revised Statutes, **add** 13-17-205 as follows:

Section 13-17-205. Disclosure of litigation costs and expenses. (1) BEFORE OR WITHIN A REASONABLE TIME AFTER COMMENCING LEGAL REPRESENTATION INVOLVING PERSONAL INJURY OR WRONGFUL DEATH, AN ATTORNEY SHALL DISCLOSE TO THE CLIENT IN WRITING ALL COURT COSTS AND LITIGATION EXPENSES FOR WHICH THE CLIENT WILL BE RESPONSIBLE DURING THE PERIOD OF REPRESENTATION. THE DISCLOSURE MUST INCLUDE A GOOD FAITH ESTIMATE OF THE TOTAL AMOUNT OF SUCH COSTS AND EXPENSES.

(2) THE CLIENT IS NOT LIABLE TO THE ATTORNEY FOR ANY COURT COSTS OR LITIGATION EXPENSES IF THE ATTORNEY HAS NOT SUBSTANTIALLY COMPLIED WITH THE DISCLOSURE REQUIREMENTS OF THIS SECTION.

(3) IF THE TOTAL AMOUNT OF COURT COSTS AND LITIGATION EXPENSES FOR WHICH THE CLIENT IS RESPONSIBLE EXCEEDS THE ESTIMATE BY MORE THAN TEN PERCENT, THEN THE CLIENT IS NOT LIABLE TO THE ATTORNEY FOR SUCH EXCESS.

SECTION 3. Effective Date – applicability. This act takes effect on July 1, 2025 and shall apply to agreements for legal representation entered into on or after such date.