



# WSAJ Supports Prejudgment Interest

SB 5059 (Sen. Kuderer), **HB #####** (Rep. Hackney)

## Summary

When a person is injured by someone else's actions and the victim wins their case at trial, prejudgment interest – or "PJI" – is interest on the damages that are awarded to the victim as compensation. PJI begins from the "date of accrual" (typically, the date the injury occurs) until the judgment is awarded by a judge or jury. PJI on claims involving injured minors, however, does not begin until the minor files their claim or turns 18, whichever is earlier.

Sometimes lawsuits take years to resolve. During the time from injury through trial, victims frequently find themselves with financial hardship due to the injury, including lost wages and medical expenses. They are also often forced to put living expenses on credit cards with high consumer interest rates. Without PJI, the victim is disadvantaged financially and the person responsible for injuring the victim benefits from keeping that money. This bill levels the playing field by ensuring that a successful plaintiff can recoup interest on money that was deprived because of someone else's negligence, recklessness or intentional misconduct.

## Prejudgment Interest Is a Simple and Modest Bill.

- **SB 5059** and **HB #####** provide for interest on damages to injured individuals for the period from when they were injured until they win their case at trial. For most claims, interest begins from the date the cause of action accrues, which is typically the date of injury. For claims involving minor children, interest is triggered when they file their claim or turn 18, whichever is earlier.
- **Example:** A driver in Washington strikes and injures a victim, resulting in thousands of dollars in medical bills and rendering them unable to work or pay their bills. The victim takes the negligent driver to court and the jury decides that the driver caused the injury, and the victim must be made whole. Current Washington law provides for interest starting when judgment was entered (after trial); but under these bills, interest would begin on the date the victim was injured.
- PJI is only triggered when a victim wins their case at trial or arbitration. It does not apply to settlements.
- The interest rate is very modest—26-week T-Bill rate plus 2%. This has been approximately 4.5 to 5% for much of the last decade, and a bit higher now.
- Washington is behind most of the country on PJI. 46 states have broader PJI than WA, and at least 41 have higher rates than this proposal. Current Washington law allows PJI only for a very narrow type of damages (called "liquidated damages"). Because liquidated damages are uncommon, victims very rarely get PJI.

## Washington Needs This Bill to Fully Compensate Victims.

- Victims should be fully compensated. In many cases, victims suffer serious injury and incur expenses associated with medical treatment, lost wages, and many other costs. People lose their homes, their businesses, and go into bankruptcy because of injuries that were caused by someone else.
- These bills are about fairness. PJI is necessary to fully compensate the fault-free victim who is forced to take their case all the way through trial to recoup their losses. The person who injures the victim should not benefit from the interest that accrued on money that is not rightfully theirs.
- Incurred debts (*e.g.*, putting bills on a credit card while out of work due to the injury) accrue interest at a much higher rate than what PJI compensates for.
- Up until the victim wins at trial, the defendant has the benefit of holding the money, which may grow in investment accounts and contribute to their financial security, all while the victim may be left with financial insecurity and mounting consumer debt (with high interest rates).
- PJI Reduces the Burden on our Backlogged-Courts. When PJI starts accruing from the date of injury, defendants are incentivized to evaluate their risk and resolve claims expeditiously – without the need for a trial. This is important now as we face historic court backlogs due to the COVID-19 pandemic and the State v. Blake case. This backlog has resulted in countless cases being continued indefinitely, with no trial date in sight.

## PJI is Victim-Centered Civil Justice.

- PJI is about making the injured victim whole. Justice requires that victims be fully compensated for their injuries.
- WSAJ strongly believes that there is no reason to provide special treatment to different groups. There has been a push to exempt certain categories of claims and defendants: specifically medical malpractice claims and public entities. Liability for negligence and the awarding of damages to an injured victim should be determined by a jury.
- **Example:** From the victim's perspective, it is immaterial whether they were struck and injured by a bus driven by a state employee or private person. The injury and resulting financial loss is the same regardless of who caused the harm.

Prejudgment interest is about efficiency, fairness, and incentive to resolve claims. It is a simple, commonsense approach already enacted in most other states. We urge your support on this important legislation and welcome continued discussion to move this forward.

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