

2022 Regular Session

SENATE BILL NO. 103

BY SENATOR FOIL

MALPRACTICE. Provides relative to legal malpractice. (8/1/22)

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AN ACT

To amend and reenact R.S. 9:5605(A) relative to legal malpractice; to provide relative to filing and burden of proof required; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:5605(A) is hereby amended and reenacted to read as follows:

§5605. Actions for legal malpractice

A. (1) No action for damages against any attorney at law duly admitted to practice in this state, any partnership of such attorneys at law, or any professional corporation, company, organization, association, enterprise, or other commercial business or professional combination authorized by the laws of this state to engage in the practice of law, whether based upon tort, or breach of contract, or otherwise, arising out of an engagement to provide legal services shall be brought unless filed in a court of competent jurisdiction and proper venue within one year from the date of the alleged act, omission, or neglect, or within one year from the date that the alleged act, omission, or neglect is discovered or should have been discovered;

(2) However ~~however~~, even as to actions filed within one year from the date of such discovery, in all events such actions shall be filed at the latest within three

1 years from the date of the alleged act, omission, error, or neglect.

2 **(3) In addition to any other requirement in this Section, if an action for**
3 **damages against an attorney at law duly admitted to practice in this state is filed**
4 **in a court of competent jurisdiction in this state, and that action is found to be**
5 **timely under this Subsection, then the party bringing that action for damages**
6 **shall prove, by a preponderance of the evidence:**

7 **(a) That the engagement to provide legal services would have concluded**
8 **in a collectable monetary award.**

9 **(b) The value of that monetary award in the absence of the occurrence**
10 **of the alleged act, omission, error, or neglect by the attorney at law.**

11 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

SB 103 Original DIGEST 2022 Regular Session Foil

Present law provides for the time limitations for filing a legal malpractice claim.

Proposed law retains present law and provides an additional burden on the plaintiff to prove by a preponderance of evidence: (1) that the representation by the attorney would have concluded in a collectable monetary award amount and (2) the value of that collectable award amount had the attorney not committed the alleged malpractice.

Effective August 1, 2022.

(Amends R.S. 9:5605(A))