

SENATE BILL No. 85

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-52-1-1.

Synopsis: Attorney's fees in civil action. Requires a court in a civil action to determine whether a nonprevailing party: (1) brought or continued to litigate an action or asserted a defense that was frivolous, unreasonable, or groundless; or (2) litigated the action in bad faith. Provides that if the court determines that a nonprevailing party has engaged in such conduct, the court shall require the nonprevailing party to reimburse the prevailing party for reasonable attorney's fees.

Effective: July 1, 2012.

Banks, Yoder

January 4, 2012, read first time and referred to Committee on Judiciary.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 85



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-52-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) In all civil
3 actions, the party recovering judgment shall recover costs, except in
4 those cases in which a different provision is made by law.

5 (b) In ~~any all civil action;~~ **actions**, the court ~~may award attorney's~~
6 ~~fees as part of the cost to the prevailing party; if the court finds that~~
7 ~~either party:~~ **shall determine whether a nonprevailing party:**

8 (1) brought the action or defense on a claim or defense that is
9 frivolous, unreasonable, or groundless;

10 (2) continued to litigate the action or defense after the party's
11 claim or defense clearly became frivolous, unreasonable, or
12 groundless; or

13 (3) litigated the action in bad faith.

14 **If the court determines that a nonprevailing party engaged in any**
15 **of the actions described in subdivisions (1) through (3), the court**
16 **shall require the nonprevailing party to reimburse the prevailing**
17 **party for the reasonable attorney's fees incurred by the prevailing**



1 **party.**
2 (c) The award of fees under subsection (b) does not prevent a
3 prevailing party from bringing an action against another party for abuse
4 of process arising in any part on the same facts. However, the
5 prevailing party may not recover the same attorney's fees twice.
6 SECTION 2. [EFFECTIVE JULY 1, 2012] **(a) The legislative**
7 **services agency shall prepare legislation for introduction in the**
8 **2013 regular session of the general assembly to organize and**
9 **correct statutes affected by this act.**
10 **(b) This SECTION expires January 1, 2014.**

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