



January 11, 2013

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## SENATE BILL No. 88

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DIGEST OF SB 88 (Updated January 9, 2013 11:14 am - DI ck)

**Citations Affected:** IC 34-52; noncode.

**Synopsis:** Legal costs. Requires a court to award attorney's fees to the prevailing party in all civil actions.

**Effective:** July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.  
January 10, 2013, amended; reassigned to Committee on Judiciary.

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SB 88—LS 6192/DI 13+



January 11, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 88

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and 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, 2013]: 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** ~~any all~~ civil ~~action;~~ **actions**, the court ~~may~~ **shall** award  
6 attorney's fees as part of the cost to the prevailing party. ~~if the court~~  
7 ~~finds that either 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 (c) The award of fees under subsection (b) does not prevent a  
15 prevailing party from bringing an action against another party for abuse  
16 of process arising in any part on the same facts. However, the  
17 prevailing party may not recover the same attorney's fees twice.

SB 88—LS 6192/DI 13+



1           SECTION 2. [EFFECTIVE JULY 1, 2013] (a) **The legislative**  
2 **services agency shall prepare legislation for introduction in the**  
3 **2014 regular session of the general assembly to organize and**  
4 **correct statutes affected by this act.**  
5           (b) **This SECTION expires January 1, 2015.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 88, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 88 as introduced.)

LONG, Chairperson

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