

SENATE BILL REPORT

SB 5023

AS PASSED SENATE, FEBRUARY 13, 1991

Brief Description: Providing expenses for defending against frivolous court actions.

SPONSORS: Senators Talmadge and Nelson.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Kreidler, L., Madsen, Newhouse, Rasmussen, and Smith, A.

Staff: Richard Rodger (786-7461)

Hearing Dates: January 29, 1991

BACKGROUND:

The frivolous claim statute requires the judge to consider the entire action as a whole prior to awarding attorney's fees for a frivolous action. In 1987, the Legislature amended the frivolous claim statute to allow attorney's fees to be awarded in cases which were dismissed in summary judgment proceedings. It has been suggested that the statute should be further clarified and amended to allow attorney's fees in frivolous actions which are either voluntarily or involuntarily dismissed.

SUMMARY:

The frivolous claim statute is amended to allow the award of attorney's fees for frivolous actions based upon all evidence presented to the judge at the time of the motion. The award of attorney's fees may be made regardless of whether the dismissal is voluntary or involuntary.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This change would allow the frivolous claim statute to be used at any time a lawsuit is dismissed.

TESTIMONY AGAINST: None

TESTIFIED: Senator Phil Talmadge (pro)