

**SENATE BILL 5023**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Talmadge and Nelson.

Read first time January 16, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to the expense of defending against frivolous court  
2 actions; and amending RCW 4.84.185.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.84.185 and 1987 c 212 s 201 are each amended to read  
5 as follows:

6 In any civil action, the court having jurisdiction may, upon  
7 written findings by the judge that the action, counterclaim,  
8 cross-claim, third party claim, or defense was frivolous and advanced  
9 without reasonable cause, require the nonprevailing party to pay the  
10 prevailing party the reasonable expenses, including fees of attorneys,  
11 incurred in opposing such action, counterclaim, cross-claim, third  
12 party claim, or defense. This determination shall be made upon motion  
13 by the prevailing party after ~~((an))~~ a voluntary or involuntary order  
14 of dismissal, order on summary judgment, ~~((or))~~ final judgment after

1 trial, or other final order terminating the action as to the prevailing  
2 party. The judge shall consider all evidence presented at the time of  
3 the motion to determine whether the position of the nonprevailing party  
4 was frivolous and advanced without reasonable cause. In no event may  
5 such motion be filed more than thirty days after entry of the order.  
6 (~~The judge shall consider the action, counterclaim, cross claim, third~~  
7 ~~party claim, or defense as a whole.~~)

8 The provisions of this section apply unless otherwise specifically  
9 provided by statute.