

# HOUSE BILL REPORT

## EHB 3201

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**As Passed House:**  
February 16, 2004

**Title:** An act relating to frivolous lawsuits.

**Brief Description:** Modifying frivolous lawsuit provisions.

**Sponsors:** By Representatives Lantz, Morrell, Clibborn and Rockefeller.

**Brief History:**

**Floor Activity:**

Passed House: 2/16/04, 67-31.

**Brief Summary of Engrossed Bill**

- Amends the frivolous lawsuit statute to require the court to award expenses to the prevailing party in a frivolous suit, and to specifically include expert witness fees as an expense that may be recovered.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority/Minority Report:** None.

**Staff:** Edie Adams (786-7180).

**Background:**

Bringing a "frivolous" lawsuit subjects a person to possible sanctions. The frivolous lawsuit statute provides that a court, upon finding that an action, counterclaim, cross-claim, third-party claim, or defense was frivolous and advanced without reasonable cause, may require the non-prevailing party to pay the prevailing party the "reasonable expenses" incurred in opposing the action. "Reasonable expenses" is not defined, but the statute lists attorneys' fees as an example of reasonable expenses. A prevailing party cannot recover attorney fees or costs under this statute unless the action brought by the non-prevailing party is frivolous as a whole. In addition, the imposition of sanctions under the statute is within the court's discretion.

These sanctions against a party may be imposed only after an order of dismissal, order on

summary judgment, final judgment after trial, or other final order terminating the action as to the prevailing party. The motion seeking an award of sanctions under this statute must be made within 30 days after entry of the order terminating the action.

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**Summary of Engrossed Bill:**

The frivolous lawsuit statute is amended to require, rather than allow, the court to award to the prevailing party the reasonable expenses in defending a frivolous claim. In addition, the statute is amended to specifically include expert witness fees as an expense that may be recovered by the prevailing party.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill was passed.

**Testimony For:** None.

**Testimony Against:** None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.