¢	Approved for Filing: ECM		
	₽ ₄	01-14-98 9:54 AM &	

11	01 11 70 7.5 171111	£

1	PAYMENT OF LEGAL FEES AND COSTS OF
2	FRIVOLOUS LAWSUITS
3	1998 GENERAL SESSION
4	STATE OF UTAH
5	Sponsor: Dennis H. Iverson
6	AN ACT RELATING TO THE JUDICIAL CODE; ALLOWING THE COURT TO AWARD
7	REASONABLE ATTORNEY'S FEES TO A PARTY IN A CIVIL ACTION WHO WAS
8	SUBJECT TO FRIVOLOUS CONDUCT.
9	This act affects sections of Utah Code Annotated 1953 as follows:
10	REPEALS AND REENACTS:
11	78-27-56, as last amended by Chapter 92, Laws of Utah 1988
12	Be it enacted by the Legislature of the state of Utah:
13	Section 1. Section 78-27-56 is repealed and reenacted to read:
14	78-27-56. Attorney's fees Award where action or defense is frivolous.
15	(1) As used in this section:
16	(a) "Conduct" means filing a civil action, asserting a claim, defense, or other position in
17	connection with a civil action, or taking any other action in connection with a civil action.
18	(b) "Frivolous conduct" means conduct of a party to a civil action or of his counsel of
19	record that:
20	(i) obviously serves merely to harass or maliciously injure another party to the civil action
21	<u>or;</u>
22	(ii) is not supported in fact or warranted under existing law and cannot be supported by
23	a good faith argument for an extension, modification, or reversal of existing law.
24	(2) In civil actions, the court shall award reasonable attorney's fees to a prevailing party
25	if the court determines that the other party's conduct during the action was frivolous.
26	(3) The court shall, upon motion of either party, hold a hearing to determine whether
27	particular conduct of a party was frivolous. Notice of the hearing shall be given to all parties to

H.B. 67 01-14-98 9:54 AM

1	the civil action in which the conduct alleged to be frivolous occurred.
2	(4) In connection with the hearing, the court may order each party who may be awarded
3	reasonable attorney's fees and his counsel of record to submit to the court for consideration an
4	itemized list of the legal services necessitated by the alleged frivolous conduct, the time expended
5	in rendering the services, and the attorney's fees associated with those services.
6	(5) The amount of an award made pursuant to this section may not exceed the attorney's
7	fees that were both reasonably incurred by a party and necessitated by the frivolous conduct.
8	(6) An award of reasonable attorney's fees pursuant to this section may be made against

Legislative Review Note as of 1-8-98 11:06 AM

a party, his counsel of record, or both.

9

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel