

HOUSE BILL No. 6001

April 26, 2006, Introduced by Reps. Hildenbrand, Gosselin, Kooiman, Stahl, Robertson, Huizenga, Vander Veen, Garfield, Nofs, Caswell, Hummel, Pastor, Ball and Kahn and referred to the Committee on Tort Reform.

A bill to amend 1961 PA 236, entitled
 "Revised judicature act of 1961,"
 by amending section 2591 (MCL 600.2591), as added by 1986 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2591. (1) ~~Upon~~ **IF, ON** motion of any party **TO A CIVIL**
 2 **ACTION**, ~~if a~~ **THE** court finds that ~~a civil~~ **THE** action or **A**
 3 defense to ~~a civil~~ **THE** action was frivolous, the court ~~that~~
 4 ~~conducts the civil action~~ shall award to the prevailing party the
 5 costs and fees incurred by that party in connection with the ~~civil~~
 6 action by assessing the costs and fees against the nonprevailing
 7 party and ~~their~~ **THE NONPREVAILING PARTY'S** attorney.

8 (2) The amount of costs and fees awarded under this section
 9 shall include all reasonable costs actually incurred by the
 10 prevailing party and any costs allowed by law or by court rule,

1 including court costs and reasonable attorney fees.

2 (3) IN ADDITION TO OTHER COSTS AND FEES AWARDED UNDER THIS
3 SECTION, THE COURT MAY IMPOSE AN APPROPRIATE SANCTION ON THE
4 ATTORNEYS, LAW FIRMS, OR PARTIES THAT INITIATED THE ACTION OR
5 ASSERTED THE DEFENSE FOUND TO BE FRIVOLOUS. A SANCTION IMPOSED
6 UNDER THIS SUBSECTION SHALL NOT EXCEED AN AMOUNT SUFFICIENT TO
7 DETER THE REPETITION OF THE CONDUCT OR COMPARABLE CONDUCT BY OTHERS
8 SIMILARLY SITUATED.

9 (4) ~~(3)~~ As used in this section:

10 (a) "Frivolous" means that at least 1 of the following
11 conditions is met:

12 (i) The party's primary purpose in initiating the action or
13 asserting the defense was to harass, embarrass, or injure the
14 prevailing party.

15 (ii) The party had no reasonable basis to believe that the
16 facts underlying that party's legal position were in fact true.

17 (iii) The party's legal position was devoid of arguable legal
18 merit.

19 (b) "Prevailing party" means a party who wins on the entire
20 record.