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BILL



ANALYSIS

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Senate Bill 1183 (as introduced 11-8-18)
Sponsor: Senator Mike Shirkey
Committee: Judiciary

Date Completed: 12-3-18

CONTENT

The bill would amend the Revised Judicature Act do the following:

- **Allow a court to award attorney fees against a party if the court determined that the appeal or proceedings in an appeal by the party was vexatious.**
- **Specify that attorney fees awarded would have to be the actual attorney fees incurred, and could not exceed a reasonable amount.**
- **Specify that costs awarded on appeal could not be duplicative of attorney fees awarded to a party if a court determined that an appeal or proceedings in an appeal by the party was vexatious.**
- **Revise the definition of "prevailing party".**

The bill would take effect 90 days after its enactment.

Attorney Fees

Under the bill, in an appeal to a circuit court, the Michigan Court of Appeals, or the Michigan Supreme Court, the court would have to, on its own initiative or on motion of any party, assess attorney fees against a party if the court determined that the appeal or proceedings in the appeal by the party was vexatious.

An appeal would be vexatious if it was taken for purposes of hindrance or delay, or without any reasonable basis for belief that there was a meritorious issue to be determined on appeal.

Proceedings in an appeal that would be vexatious would be the filing of a pleading, motion, argument, brief, document, or record in the appeal that was grossly lacking in the requirements of propriety, violated court rules, or grossly disregarded the requirements of a fair presentation of the issues to the court.

Attorney fees assessed under the bill would have to be the actual attorney fees incurred by the opposing party because of the vexatious appeal or proceedings, and could not exceed a reasonable amount.

Attorney Costs

On appeal to a circuit court, the Michigan Court of Appeals, or the Michigan Supreme Court, the Act allows certain costs to be awarded in the court's discretion.

Under the bill, any costs awarded could not be duplicative of attorney fees awarded to a party if a court determined that an appeal or proceedings of an appeal by the party was vexatious.

Prevailing Party

The Act defines "prevailing party" as a party who wins on the entire record. Under the bill, the term would mean either of the following:

- In an action in which a single cause of action was alleged, the party who won on the entire record.
- In an action involving several issues or counts that stated different causes of action or different defenses, the party prevailing on each issue or count as to that issue or count.

MCL 600.2445 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on the State or local government. Any costs awarded by the court would be incurred by civil litigants.

Fiscal Analyst: Abbey Frazier

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.