

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 22-1272

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Benavidez, Bird, Jodeh, Kennedy, Kipp, Lindsay, Snyder, Garnett, Bacon, Esgar, Exum, Herod, Ricks, Sirota;
also SENATOR(S) Gonzales and Rodriguez, Danielson, Jaquez Lewis, Fenberg.

CONCERNING THE REPEAL OF THE PROVISION AWARDING A DEFENDANT ATTORNEY FEES IN A TORT ACTION WHEN THE CASE IS DISMISSED ON MOTION OF THE DEFENDANT PRIOR TO TRIAL.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 13-17-201 as follows:

13-17-201. Award of reasonable attorney fees in certain cases.

(1) In all actions brought as a result of a death or an injury to person or property occasioned by the tort of any other persons, where any such action is dismissed on motion of the defendant prior to trial under rule 12 (b) of the Colorado rules of civil procedure, such defendant shall have judgment for his reasonable attorney fees in defending the action. This ~~section~~ SUBSECTION (1) ~~shall~~ DOES not apply if a motion under rule 12 (b) of the

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

Colorado rules of civil procedure is treated as a motion for summary judgment and disposed of as provided in rule 56 of the Colorado rules of civil procedure.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO ANY CLAIM THAT IS A GOOD FAITH, NON-FRIVOLOUS CLAIM FILED FOR THE EXPRESS PURPOSE OF EXTENDING, LIMITING, MODIFYING, OR REVERSING EXISTING PRECEDENT, LAW, OR REGULATION; OR FOR THE EXPRESS PURPOSE OF ESTABLISHING THE MEANING, LAWFULNESS, OR CONSTITUTIONALITY OF A LAW, REGULATION, OR UNITED STATES OR STATE CONSTITUTIONAL RIGHT AND THE MEANING, LAWFULNESS, OR CONSTITUTIONALITY HAS NOT BEEN DETERMINED BY THE COLORADO SUPREME COURT, OR FOR CASES PRESENTING QUESTIONS UNDER THE UNITED STATES CONSTITUTION, TO THE SUPREME COURT OF THE UNITED STATES. THIS SUBSECTION (2) APPLIES SO LONG AS THE PARTY THAT BROUGHT THE DISMISSED CLAIM HAS PLEADED, IN ITS COMPLAINT, COUNTERCLAIM, OR CROSS CLAIM, THAT THE DISMISSED CLAIM WAS MADE FOR ONE OF THE EXPRESS PURPOSES STATED IN THIS SUBSECTION (2) AND IDENTIFIED THE PRECEDENT, LAW, OR REGULATION THE PARTY SEEKS TO EXTEND, LIMIT, MODIFY, OR REVERSE, OR WHETHER THE ISSUE TO BE DECIDED IS A MATTER OF FIRST IMPRESSION.

SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO