

# HOUSE BILL No. 1040

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-52-1-1.

**Synopsis:** Attorney fees. Requires a court to award attorney's fees to the prevailing party in all civil actions.

**Effective:** July 1, 2020.

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January 6, 2020, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# HOUSE BILL No. 1040

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 34-52-1-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) In all civil  
3 actions, the party recovering judgment shall recover costs, except in  
4 those cases in which a different provision is made by law.

5 (b) In ~~any all~~ civil ~~action~~, ~~actions~~, the court ~~may~~ **shall** award  
6 attorney's fees as part of the cost to the prevailing party. ~~if the court~~  
7 ~~finds that either party:~~

8 (1) ~~brought the action or defense on a claim or defense that is~~  
9 ~~frivolous; unreasonable; or groundless;~~

10 (2) ~~continued to litigate the action or defense after the party's~~  
11 ~~claim or defense clearly became frivolous; unreasonable; or~~  
12 ~~groundless; or~~

13 (3) ~~litigated the action in bad faith.~~

14 (c) The award of fees under subsection (b) does not prevent a  
15 prevailing party from bringing an action against another party for abuse  
16 of process arising in any part on the same facts. However, the  
17 prevailing party may not recover the same attorney's fees twice.



1           SECTION 2. [EFFECTIVE JULY 1, 2020] (a) **The legislative**  
2 **services agency shall prepare legislation for introduction in the**  
3 **2021 regular session of the general assembly to organize and**  
4 **correct statutes affected by this act.**  
5           (b) **This SECTION expires January 1, 2022.**

