

2020 Regular Session

SENATE BILL NO. 230

BY SENATOR BARROW

DOMESTIC VIOLENCE. Provides relative to court costs and fees in domestic abuse cases.
(gov sig)

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AN ACT

To amend and reenact Children's Code Article 1570.1 and R.S. 46:2136.1, relative to domestic abuse assistance; to provide relative to costs and fees associated with protective orders; to provide that failure to appear at a hearing for a protective order does not, in and of itself, constitute grounds for assessing costs and fees against a victim of domestic abuse; to provide definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 1570.1 is hereby amended and reenacted to read as follows:

Art. 1570.1. Costs paid by abuser

A. ~~All~~ **Except as provided in Paragraph B of this Article, all** court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance in accordance with the provisions of this Chapter shall be paid by the perpetrator of the domestic violence, including all costs of medical and psychological care for the abused adult, or for any of the children, necessitated by the domestic violence.

1 B. ~~However, if~~ **If** the court determines the petition was frivolous, the court
2 may order the nonprevailing party to pay all court costs and reasonable attorney fees
3 of the other party. **For purposes of this Paragraph, a "frivolous claim" shall**
4 **mean a claim that lacks merit under existing law and that cannot be supported**
5 **by a good faith argument for the extension, modification, or reversal of existing**
6 **law. Failure to appear at a hearing on the petition shall not, of itself, constitute**
7 **grounds for assessing court costs and fees against the petitioner.**

8 Section 2. R.S. 46:2136.1 is hereby amended and reenacted to read as follows:

9 §2136.1. Costs paid by abuser

10 A. ~~All~~ **Except as provided in Subsection B of this Section, all** court costs,
11 attorney fees, costs of enforcement and modification proceedings, costs of appeal,
12 evaluation fees, and expert witness fees incurred in maintaining or defending any
13 proceeding concerning domestic abuse assistance in accordance with the provisions
14 of this Part shall be paid by the perpetrator of the domestic violence, including all
15 costs of medical and psychological care for the abused adult, or for any of the
16 children, necessitated by the domestic violence.

17 B. ~~However, if~~ **If** the court determines the petition was frivolous, the court
18 may order the nonprevailing party to pay all court costs and reasonable attorney fees
19 of the other party. **For purposes of this Subsection, a "frivolous claim" shall**
20 **mean a claim that lacks merit under existing law and that cannot be supported**
21 **by a good faith argument for the extension, modification, or reversal of existing**
22 **law. Failure to appear at a hearing on the petition shall, of itself, constitute**
23 **grounds for assessing court costs and fees against the petitioner.**

24 Section 3. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 230 Original 2020 Regular Session Barrow

Present law provides that all court costs and fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance in juvenile, family, and civil courts are to be paid by the perpetrator of the domestic violence, including all costs of medical and psychological care for the abused adult, or for any of the children, necessitated by the domestic violence.

Proposed law retains present law.

Present law provides that if the court determines that a petition in a domestic abuse case was frivolous, the court may order the nonprevailing party to pay all court costs and reasonable attorney fees of the other party.

Proposed law retains present law and adds that for purposes of present law, a "frivolous claim" means a claim that lacks merit under existing law and that cannot be supported by a good faith argument for the extension, modification, or reversal of existing law. Proposed law further provides that failure to appear at a hearing on the petition for a protective order cannot in and of itself constitute grounds for assessing court costs and fees against the petitioner.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends Ch.C. Art. 1570.1 and R.S. 46:2136.1)