

SECOND REGULAR SESSION

SENATE BILL NO. 614

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KEHOE AND LAMPING.

Read 1st time January 5, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4628S.02I

AN ACT

To repeal section 514.205, RSMo, and to enact in lieu thereof one new section relating to litigation costs in frivolous suits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 514.205, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 514.205, to read as follows:

514.205. 1. In any civil action or part of a civil action pending before any
2 division of any court of this state including the probate division of the circuit
3 court, if the court finds after a hearing for such purpose that the cause was
4 initiated, or a defense was asserted, or a motion was filed, or any proceeding
5 therein was had frivolously and in bad faith, the court shall require the party
6 who initiated such cause, asserted such defense, filed such motion, or caused such
7 proceeding to be had to pay the other party named in such action the amount of
8 the costs attributable thereto and the reasonable expenses incurred by the party
9 opposing such cause, defense, motion, or proceeding, including reasonable
10 attorney's fees and compensation of said party for the time reasonably required
11 of the party to oppose such cause, defense, motion or proceeding. [Nothing in this
12 section shall be construed as creating any liability on the part of] Any attorney
13 representing a party in [the] a proceeding [who] **shall act** in good faith [acted]
14 at the specific direction of his client in initiating the case, asserting the defense,
15 filing the motion, or causing the proceeding to be had. **Any attorney failing to**
16 **so act shall be required to pay the prevailing party's litigation costs,**
17 **including attorney's fees.**

18 2. The provisions of this section shall not apply to specific conduct
19 occurring prior to September 28, 1985. The provisions of this section shall not

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 apply to proceedings brought in the nature of a civil action where a convicted
21 person seeks a judicial review of his conviction.

22 **3. Notwithstanding any provision of subsection 1 of this section**
23 **to the contrary, if a cause is dismissed for having no basis in law or**
24 **fact, the court shall award to the party filing the motion its litigation**
25 **costs and attorney's fees. If such a motion is denied, the party that**
26 **filed the motion shall be required to pay the opposing party's litigation**
27 **costs and attorney's fees in defending against the motion.**

✓
Unofficial

Bill

Copy