

SENATE BILL 651

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 20; Title 25; Title 27; Title 29, Chapter 11; Title 29, Chapter 34 and Title 29, Chapter 5, relative to recovery of litigation costs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 20-12-119, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Notwithstanding any other rule or statute to the contrary, in civil cases as provided in subsection (c), whether tried by a jury or before the court without a jury, the judge shall adjudge the costs in favor of the prevailing party. Such costs shall include all reasonable litigation costs actually incurred due to the proceedings, including, but not limited to, reasonable and necessary expenses for investigation, reasonable and necessary court reporter expenses for depositions or trials, reasonable and necessary expert witness fees for depositions or trials, reasonable and necessary interpreter fees for depositions or trials, guardian ad litem fees, reasonable and necessary attorneys fees, and court costs.

(b) For purposes of this section, a party in whose favor a judgment is entered shall be deemed the prevailing party. In negligence actions a plaintiff is a prevailing party if the plaintiff's negligence is adjudged as less than the defendant's negligence, and a defendant is a prevailing party if the plaintiff's negligence is adjudged as equal to or more than the defendant's negligence.

(c) This act shall apply only in civil cases in which:

(1) A summary judgment pursuant to Rule 56 of the Tennessee Rules of Civil Procedure is granted;

(2) The prevailing party in the trial court also prevails in any appeal from the judgment of the trial court; or

(3) The plaintiff has not employed legal counsel based upon a contingency fee arrangement.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.