

HOUSE BILL NO. 1334

Introduced by

Representatives Jones, Fegley, Heinert, Klemin, Strinden, Vigesaa

Senator Kannianen

1 A BILL for an Act to amend and reenact section 28-26-01 of the North Dakota Century Code,
2 relating to requiring a court to determine if a claim for relief was frivolous.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 28-26-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **28-26-01. Attorney's fees by agreement - Exceptions - Awarding of costs and**
7 **attorney's fees to prevailing party.**

8 1. Except as provided in subsection 2, the amount of fees of attorneys in civil actions
9 must be left to the agreement, express or implied, of the parties.

10 2. ~~When ruling on a motion to dismiss an action, on a motion for summary judgment, or~~
11 ~~subsequent to adjudication on the merits in civil actions, if requested~~ the court shall,
12 upon ~~make a finding that determine whether a claim for relief was frivolous. If the court~~
13 ~~finds a claim for relief was frivolous, the court shall~~ award reasonable actual and
14 statutory costs, including reasonable attorney's fees to the prevailing party. Such costs
15 must be awarded regardless of the good faith of the attorney or party making the claim
16 for relief if there is such a complete absence of actual facts or law that a reasonable
17 person could not have thought a court would render judgment in that person's favor,
18 providing the prevailing party has in responsive pleading alleged the frivolous nature of
19 the claim. This subsection does not require the award of costs or fees against an
20 attorney or party advancing a claim unwarranted under existing law, if it is supported
21 by a good-faith argument for an extension, modification, or reversal of the existing law.