

SENATE FILE NO. SF0125

Frivolous lawsuits.

Sponsored by: Senator(s) Aullman and Barrasso and
Representative(s) Davison, Luthi and
Quarberg

A BILL

for

1 AN ACT relating to civil procedure; providing for sanctions
2 for frivolous conduct in a civil case; repealing
3 conflicting provisions; and providing for an effective
4 date.

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6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 1-14-129 is created to read:

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10 **1-14-129. Sanctions for frivolous conduct in a civil**
11 **case.**

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13 (a) As used in this section:

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15 (i) "Conduct" means filing a civil action,
16 asserting a claim, defense or other position in connection

1 with a civil action, or taking any other action in
2 connection with a civil action;

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4 (ii) "Frivolous conduct" means conduct of a
5 party to a civil action or of his counsel of record that
6 satisfies either of the following:

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8 (A) It obviously serves merely to harass or
9 maliciously injure another party to the civil action;

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11 (B) It is not supported in fact or
12 warranted under existing law and cannot be supported by a
13 good faith argument for an extension, modification or
14 reversal of existing law.

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16 (b) In accordance with the provisions of this
17 section, at any time prior to the commencement of the trial
18 in a civil action or within twenty-one (21) days after the
19 entry of judgment in a civil action, the court may award
20 reasonable attorney's fees to any party to that action
21 adversely affected by frivolous conduct.

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1 (c) An award of reasonable attorney's fees may be
2 made by the court upon the motion of a party to a civil
3 action, but only after the court:

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5 (i) Sets a date for a hearing to determine
6 whether particular conduct was frivolous;

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8 (ii) Gives notice of the date of the hearing to
9 each party or counsel of record who allegedly engaged in
10 frivolous conduct and to each party allegedly adversely
11 affected by frivolous conduct; and

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13 (iii) Conducts the hearing to determine if the
14 conduct was frivolous, whether any party was adversely
15 affected by the conduct if it is found to be frivolous, and
16 to determine if an award is to be made, the amount of that
17 award. In connection with the hearing, the court may order
18 each party who may be awarded reasonable attorney's fees
19 and his counsel of record to submit to the court, for
20 consideration in determining the amount of any such award,
21 an itemized list of the legal services necessitated by the
22 alleged frivolous conduct, the time expended in rendering
23 the services, and the attorney's fees associated with those
24 services. Additionally, the court shall allow the parties

1 and counsel of record involved to present any other
2 relevant evidence at the hearing.

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4 (d) The amount of an award that is made pursuant to
5 this section shall not exceed the attorney's fees that were
6 both reasonably incurred by a party and necessitated by the
7 frivolous conduct.

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9 (e) An award of reasonable attorney's fees pursuant
10 to this section may be made against a party, his counsel of
11 record, or both.

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13 (f) An award of reasonable attorney's fees pursuant
14 to this section shall not affect or determine the amount of
15 or the manner of computation of attorney's fees as between
16 an attorney and the attorney's client.

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18 (g) The provisions of this section do not affect or
19 limit the application of any rule of civil procedure or
20 other applicable law to the extent that such a rule or
21 section prohibits an award of attorney's fees or authorizes
22 an award of attorney's fees in a specified manner,
23 generally, or subject to limitations.

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1 **Section 2.** W.S. 1-14-128 is repealed.

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3 **Section 3.** This act is effective July 1, 2005.

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(END)