

Sixty-seventh
Legislative Assembly
of North Dakota

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