

1 H.570

2 Introduced by Representative Anthony of Barre City

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; pleading and practice; attorney's fees

6 Statement of purpose: This bill proposes to require the court to award  
7 reasonable costs and attorney's fees to the defendant in a civil action if  
8 judgment on the pleadings is granted to the defendant or if the case is  
9 dismissed for failure to state a claim upon which relief can be granted.

10 An act relating to attorney's fees in civil actions

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. PURPOSE

13 The purpose of this act is to improve the equal opportunity for justice and  
14 the efficient operation of the judicial system for Vermonters by reducing the  
15 number of frivolous and unsubstantiated civil lawsuits filed in the courts. The  
16 backlog in the courts is well documented, and it is significantly impeding the  
17 ability of Vermonters to obtain justice in a timely fashion. The backlog is  
18 exacerbated by excessive filing of civil lawsuits without any legal or factual  
19 support, resulting in a court system that is so overwhelmed with frivolous  
20 lawsuits that it is unable to address meritorious claims promptly. To address

1 that imbalance, this act requires the court to award reasonable costs and  
2 attorney's fees to the defendant when a case is dismissed because the plaintiff  
3 filed it without having any legal or factual basis. This requirement will  
4 discourage frivolous lawsuits and permit the courts to resolve legitimate claims  
5 more quickly.

6 Sec. 2. 12 V.S.A. § 1043 is added to read:

7 § 1043. DISMISSAL; JUDGMENT ON THE PLEADINGS; FAILURE TO  
8 STATE A CLAIM; ATTORNEY'S FEES

9 When a complaint filed in the Civil Division of the Superior Court is  
10 dismissed for failure to state a claim upon which relief can be granted pursuant  
11 to Vermont Rule of Civil Procedure 12(b)(6), or if judgment on the pleadings  
12 is granted to the defendant pursuant to Vermont Rule of Civil Procedure 12(c),  
13 the court's order shall include an award of reasonable costs and attorney's fees  
14 to the defendant.

15 Sec. 3. EFFECTIVE DATE

16 This act shall take effect on passage.