

ASSEMBLY BILL NO. 110—ASSEMBLYMAN KIRNER (BY REQUEST)

FEBRUARY 2, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing court sanctions for certain conduct in civil actions. (BDR 2-648)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to civil actions; requiring a party who is not represented by an attorney to pay certain costs, expenses and fees that are reasonably incurred as a result of certain conduct by the party in a civil action or proceeding; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a court to require an attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred by an opposing party as a result of the attorney's conduct if the court finds that the attorney: (1) filed, maintained or defended a civil action or proceeding and the action or defense is not well-grounded in fact or not warranted by law; or (2) unreasonably and vexatiously extended a civil action or proceeding. Existing law also sets forth the intent of the Legislature in establishing the award of such costs, expenses and attorney's fees and the imposition of court sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure. (NRS 7.085)

This bill repeals NRS 7.085 but replaces that section with **section 1** of this bill to be added to chapter 18 of NRS, which relates to the awarding of costs and disbursements in civil actions. The new section contains the same provisions as existing law except that the new section amends existing law by making those provisions also applicable to parties who are not represented by an attorney.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 18 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a court finds that an attorney or a party who is not represented by an attorney has:*

*(a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or*

*(b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State,*

*↳ the court shall require the attorney or unrepresented party personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.*

*2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.*

**Sec. 2.** NRS 18.005 is hereby amended to read as follows:

18.005 For the purposes of NRS 18.010 to 18.150, inclusive, *and section 1 of this act*, the term "costs" means:

1. Clerks' fees.

2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.

3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.

4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.

5. Reasonable fees of not more than five expert witnesses in an amount of not more than \$1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.



- 1       6. Reasonable fees of necessary interpreters.
- 2       7. The fee of any sheriff or licensed process server for the
- 3 delivery or service of any summons or subpoena used in the action,
- 4 unless the court determines that the service was not necessary.
- 5       8. Compensation for the official reporter or reporter pro
- 6 tempore.
- 7       9. Reasonable costs for any bond or undertaking required as
- 8 part of the action.
- 9       10. Fees of a court bailiff or deputy marshal who was required
- 10 to work overtime.
- 11       11. Reasonable costs for telecopies.
- 12       12. Reasonable costs for photocopies.
- 13       13. Reasonable costs for long distance telephone calls.
- 14       14. Reasonable costs for postage.
- 15       15. Reasonable costs for travel and lodging incurred taking
- 16 depositions and conducting discovery.
- 17       16. Fees charged pursuant to NRS 19.0335.
- 18       17. Any other reasonable and necessary expense incurred in
- 19 connection with the action, including reasonable and necessary
- 20 expenses for computerized services for legal research.
- 21       **Sec. 3.** NRS 7.085 is hereby repealed.

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### TEXT OF REPEALED SECTION

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#### **7.085 Payment of additional costs, expenses and attorney's fees by attorney who files, maintains or defends certain civil actions or extends civil actions in certain circumstances.**

1. If a court finds that an attorney has:

(a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or

(b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State,

↳ the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.

2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this



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section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

