

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0845.01 Chelsea Princell x4335

HOUSE BILL 22-1272

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Benavidez,

SENATE SPONSORSHIP

Gonzales and Rodriguez,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE PROVISION AWARDING A DEFENDANT**
102 **ATTORNEY FEES IN A TORT ACTION WHEN THE CASE IS**
103 **DISMISSED ON MOTION OF THE DEFENDANT PRIOR TO TRIAL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a defendant may be awarded reasonable attorney fees in tort actions if the case is dismissed on motion of the defendant prior to trial. The bill eliminates this provision.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 24, 2022

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 13-17-201 as
3 follows:

4 **13-17-201. Award of reasonable attorney fees in certain cases.**

5 (1) In all actions brought as a result of a death or an injury to person or
6 property occasioned by the tort of any other persons, where any such
7 action is dismissed on motion of the defendant prior to trial under rule 12
8 (b) of the Colorado rules of civil procedure, such defendant shall have
9 judgment for his reasonable attorney fees in defending the action. This
10 ~~section~~ SUBSECTION (1) shall DOES not apply if a motion under rule 12 (b)
11 of the Colorado rules of civil procedure is treated as a motion for
12 summary judgment and disposed of as provided in rule 56 of the
13 Colorado rules of civil procedure.

14 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO ANY
15 CLAIM THAT IS A GOOD FAITH, NON-FRIVOLOUS CLAIM FILED FOR THE
16 EXPRESS PURPOSE OF EXTENDING, LIMITING, MODIFYING, OR REVERSING
17 EXISTING PRECEDENT, LAW, OR REGULATION; OR FOR THE EXPRESS
18 PURPOSE OF ESTABLISHING THE MEANING, LAWFULNESS, OR
19 CONSTITUTIONALITY OF A LAW, REGULATION, OR UNITED STATES OR
20 STATE CONSTITUTIONAL RIGHT AND THE MEANING, LAWFULNESS, OR
21 CONSTITUTIONALITY HAS NOT BEEN DETERMINED BY THE COLORADO
22 SUPREME COURT, OR FOR CASES PRESENTING QUESTIONS UNDER THE
23 UNITED STATES CONSTITUTION, TO THE SUPREME COURT OF THE UNITED
24 STATES. THIS SUBSECTION (2) APPLIES SO LONG AS THE PARTY THAT
25 BROUGHT THE DISMISSED CLAIM HAS PLEADED, IN ITS COMPLAINT,
26 COUNTER-COMPLAINT, OR CROSS-COMPLAINT THAT THE DISMISSED CLAIM
27 WAS MADE FOR ONE OF THE EXPRESS PURPOSES STATED IN THIS

1 SUBSECTION (2) AND IDENTIFIED THE CONTRARY PRECEDENT OR
2 INTERPRETATION THE PARTY SEEKS TO DISTINGUISH OR OVERCOME, OR
3 WHETHER THE ISSUE TO BE DECIDED IS A MATTER OF FIRST IMPRESSION.

4

5 **SECTION 2. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, or safety.