

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1043.01 Christy Chase x2008

HOUSE BILL 16-1299

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HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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House Committees

State, Veterans, & Military Affairs

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE STANDARD FOR AWARDING A DEFENDANT  
102 LITIGATION COSTS IN EMPLOYMENT DISCRIMINATION CASES.

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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://www.leg.state.co.us/bills/summaries>.)*

Under current law, if a plaintiff brings an employment discrimination action that the court finds to be frivolous, groundless, or vexatious, the court may award the defendant attorney fees and costs.

The bill modifies the standard for awarding attorney fees and costs to a prevailing defendant to allow an award when the plaintiff pursues a claim that lacks substantial merit because it is pursued in bad faith or

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

when a reasonable person would not believe the claim is likely to succeed.

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-34-405, **amend**  
3 (5) as follows:

4           **24-34-405. Relief authorized - short title.** (5) (a) In any civil  
5 action under this part 4, the court may award reasonable attorney fees and  
6 costs to the prevailing plaintiff.

7           (b) (I) If the court finds that ~~an action or defense brought pursuant~~  
8 ~~to~~ THE PLAINTIFF UNREASONABLY BROUGHT OR CONTINUED TO PURSUE AN  
9 ACTION OR INDIVIDUAL CLAIM UNDER this part 4 ~~was frivolous,~~  
10 ~~groundless, or vexatious as provided in article 17 of title 13, C.R.S.,~~ THAT  
11 THE PLAINTIFF KNEW OR BECAME AWARE, OR SHOULD HAVE KNOWN OR  
12 BECOME AWARE, LACKED SUBSTANTIAL MERIT, the court may award costs  
13 and REASONABLE attorney fees to the defendant PREVAILING in the action  
14 OR CLAIM.

15           (II) FOR PURPOSES OF THIS PARAGRAPH (b), AN ACTION OR CLAIM  
16 UNDER THIS PART 4 LACKS SUBSTANTIAL MERIT IF THE ACTION OR CLAIM  
17 IS BROUGHT OR PURSUED BY THE PLAINTIFF:

18           (A) IN BAD FAITH; OR

19           (B) WHEN NO REASONABLE PERSON, WITH KNOWLEDGE OF THE  
20 FACTS KNOWN TO THE PLAINTIFF AT THE TIME OR AFTER THE ACTION OR  
21 CLAIM WAS FILED, WOULD BELIEVE THE ACTION OR CLAIM IS LIKELY TO  
22 SUCCEED.

23           **SECTION 2. Act subject to petition - effective date.** This act  
24 takes effect at 12:01 a.m. on the day following the expiration of the  
25 ninety-day period after final adjournment of the general assembly (August

1 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
2 referendum petition is filed pursuant to section 1 (3) of article V of the  
3 state constitution against this act or an item, section, or part of this act  
4 within such period, then the act, item, section, or part will not take effect  
5 unless approved by the people at the general election to be held in  
6 November 2016 and, in such case, will take effect on the date of the  
7 official declaration of the vote thereon by the governor.