

By: Rinaldi

H.B. No. 1038

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the award of costs and attorney's fees in a motion to
3 dismiss for certain actions that have no basis in law or fact.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 30.021, Civil Practice and Remedies
6 Code, is amended to read as follows:

7 Sec. 30.021. AWARD OF COSTS AND ATTORNEY'S FEES IN RELATION
8 TO CERTAIN MOTIONS TO DISMISS. In a civil proceeding, on a trial
9 court's granting or denial, in whole or in part, of a motion to
10 dismiss filed under the rules adopted by the supreme court under
11 Section 22.004(g), Government Code, the court shall award costs and
12 reasonable and necessary attorney's fees to the prevailing party if
13 the prevailing party is the party that filed the motion. This
14 section does not apply to actions by or against the state, other
15 governmental entities, or public officials acting in their official
16 capacity or under color of law.

17 SECTION 2. Section 22.004(g), Government Code, is amended
18 to read as follows:

19 (g) The supreme court shall adopt rules to provide for the
20 dismissal of causes of action that have no basis in law or fact on
21 motion and without evidence. The rules shall provide that the
22 motion to dismiss shall be granted or denied within 45 days of the
23 filing of the motion to dismiss. Notwithstanding Subsection (c),
24 the rules may not require that costs and attorney's fees be awarded

1 to a prevailing party that is not the party that filed the motion.

2 The rules shall not apply to actions under the Family Code.

3 SECTION 3. The changes in law made by this Act apply only to
4 a civil action commenced on or after the effective date of this Act.
5 A civil action commenced before the effective date of this Act is
6 governed by the law applicable to the action immediately before the
7 effective date of this Act, and that law is continued in effect for
8 that purpose.

9 SECTION 4. This Act takes effect September 1, 2017.