

BILL ANALYSIS

H.B. 3085
By: Dutton
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

"Removal" is a concept in federal law that allows some cases filed in state court to be moved to federal court. There are reports of recent efforts by parents who owe child support to seek to remove their case to federal court for the purpose of delaying the case, even though it will ultimately be remanded back to state court. Because a removal prohibits any further action by the state court, these efforts can result in long delays in proceedings and increased litigation costs for the opposing party. H.B. 3085 seeks to discourage this practice by allowing attorney's fees to be awarded and monetary sanctions to be imposed when certain suits for the dissolution of a marriage or affecting the parent-child relationship have been remanded to state court following removal.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3085 amends the Family Code to authorize a court with jurisdiction of a suit filed for dissolution of marriage or a suit affecting the parent-child relationship, on its own motion or on the motion of a party, to award reasonable attorney's fees and costs of the suit and to impose other sanctions, as prescribed by the bill, if a party removes the suit to federal court and the court with jurisdiction finds that the federal court to which the case was removed has:

- remanded the proceedings to state court;
- imposed attorney's fees or other costs of suit against the removing party or the removing party's counsel; and
- determined that the removal was:
 - frivolous;
 - filed for the purpose of delaying the state court suit or avoiding an unfavorable decision by the state court;
 - filed for the purpose of gaining an advantage over another party in the state court suit; or
 - filed for the purpose of causing damage to another party in the state court suit.

H.B. 3085 authorizes the monetary sanctions to be imposed on the removing party, the removing party's attorney, or both. The bill authorizes a judgment for attorney's fees and costs of the suit awarded to be enforced in the name of the attorney for a party that did not remove the case to federal court by any means available for the enforcement of a judgment for debt.

EFFECTIVE DATE

September 1, 2019.