

By: Dutton

H.B. No. 3085

A BILL TO BE ENTITLED

AN ACT

relating to an award of costs and attorney's fees and the imposition of sanctions in certain suits for the dissolution of a marriage or affecting the parent-child relationship.

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

SECTION 1. Subchapter H, Chapter 6, Family Code, is amended by adding Section 6.7081 to read as follows:

Sec. 6.7081. ATTORNEY'S FEES AND EXPENSES FOLLOWING REMOVAL IN CERTAIN CIRCUMSTANCES. (a) A court with jurisdiction of a suit filed under this chapter may, on its own motion or on the motion of a party, take action as provided under Subsection (b) 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:

(1) remanded the proceedings to state court;

(2) imposed attorney's fees or other costs of suit against the removing party or the removing party's counsel; and

(3) determined that the removal was:

(A) frivolous;

(B) filed for the purpose of delaying the state court suit or avoiding an unfavorable decision by the state court;

(C) filed for the purpose of gaining an advantage over another party in the state court suit; or

(D) filed for the purpose of causing damage to another party in the state court suit.

1        (b) If the court with jurisdiction of the suit makes a  
2 finding described by Subsection (a), the court may:

3            (1) award:

4                    (A) the reasonable attorney's fees and expenses  
5 incurred due to the removal by a party that did not remove the case  
6 to federal court;

7                    (B) other damages caused by the removal to a  
8 party that did not remove the case to federal court; and

9                    (C) postjudgment interest on any attorney's  
10 fees, costs, and damages awarded to a party that did not remove the  
11 case to federal court;

12            (2) impose monetary sanctions on the party that  
13 removed the case to federal court; and

14            (3) take any action as authorized by the Texas Rules of  
15 Civil Procedure or other law regarding a party that files a  
16 frivolous pleading or is determined to be a vexatious litigant.

17        (c) The sanctions described by Subsection (b)(2) may be  
18 imposed on:

19                    (1) the removing party;

20                    (2) the removing party's attorney; or

21                    (3) both the removing party and the removing party's  
22 attorney.

23        (d) A judgment for attorney's fees and costs of the suit  
24 awarded under this section may be enforced in the name of the  
25 attorney for a party that did not remove the case to federal court  
26 by any means available for the enforcement of a judgment for debt.

27        SECTION 2. Chapter 106, Family Code, is amended by adding

1 Section 106.003 to read as follows:

2 Sec. 106.003. ATTORNEY'S FEES AND EXPENSES FOLLOWING  
3 REMOVAL IN CERTAIN CIRCUMSTANCES. (a) A court with jurisdiction of  
4 a suit filed under this chapter may, on its own motion or on the  
5 motion of a party, take action as provided under Subsection (b) if a  
6 party removes the suit to federal court and the court with  
7 jurisdiction finds that the federal court to which the case was  
8 removed has:

9 (1) remanded the proceedings to state court;

10 (2) imposed attorney's fees or other costs of suit  
11 against the removing party or the removing party's counsel; and

12 (3) determined that the removal was:

13 (A) frivolous;

14 (B) filed for the purpose of delaying the state  
15 court suit or avoiding an unfavorable decision by the state court;

16 (C) filed for the purpose of gaining an advantage  
17 over another party in the state court suit; or

18 (D) filed for the purpose of causing damage to  
19 another party in the state court suit.

20 (b) If the court with jurisdiction of the suit makes a  
21 finding described by Subsection (a), the court may:

22 (1) award:

23 (A) the reasonable attorney's fees and expenses  
24 incurred due to the removal by a party that did not remove the case  
25 to federal court;

26 (B) other damages caused by the removal to a  
27 party that did not remove the case to federal court; and

1                   (C) postjudgment interest on any attorney's  
2 fees, costs, and damages awarded to a party that did not remove the  
3 case to federal court;

4                   (2) impose monetary sanctions on the party that  
5 removed the case to federal court; and

6                   (3) take any action as authorized by the Texas Rules of  
7 Civil Procedure or other law regarding a party that files a  
8 frivolous pleading or is determined to be a vexatious litigant.

9                   (c) The sanctions described by Subsection (b)(2) may be  
10 imposed on:

11                   (1) the removing party;

12                   (2) the removing party's attorney; or

13                   (3) both the removing party and the removing party's  
14 attorney.

15                   (d) A judgment for attorney's fees and costs of the suit  
16 awarded under this section may be enforced in the name of the  
17 attorney for a party that did not remove the case to federal court  
18 by any means available for the enforcement of a judgment for debt.

19                   SECTION 3. The changes in law made by this Act apply only to  
20 a suit for dissolution of a marriage or a suit affecting the  
21 parent-child relationship filed on or after the effective date of  
22 this Act. A suit for dissolution of a marriage or a suit affecting  
23 the parent-child relationship filed before the effective date of  
24 this Act is governed by the law in effect on the date the suit was  
25 filed, and the former law is continued in effect for that purpose.

26                   SECTION 4. This Act takes effect September 1, 2019.