

July 15, 2003

The Honorable Alfred W. Speer
Clerk of the House of Representatives
State Capitol
Baton Rouge, LA 70804

Re: House Bill No. 1051 by Representative Hebert
Provides relative to court costs; to require the non-prevailing party to pay all costs if the suit is frivolous.

Dear Mr. Speer:

House Bill No. 1051 provides that if a court determines that a suit, or the defense to a suit, when viewed in its totality, is frivolous, then the prevailing party shall pay court costs and reasonable attorney fees. Currently, Code of Civil Procedure Article 1920 affords the trial court great latitude in assessing court costs. Therefore, in the event that the trial court believes that either the suit or its defense is frivolous, then the court may assess the costs to the party who has filed frivolous pleadings. Also, currently, Code of Civil Procedure Article 863 provides that the signature of an attorney on a pleading constitutes a certification by him that he has read the pleading, that to the best of his knowledge the pleading is well grounded in fact, that it is warranted by existing law or good faith argument for extension, modification or reversal of existing law, and that it is not interposed for any improper purpose. The Article further provides that if a court finds that there has been a violation of the Article, it shall impose an appropriate sanction which may include ordering the party in violation to pay to the other party reasonable expenses incurred because of the filing, including a reasonable attorney's fee. House Bill No. 1051 therefore adds little to current law. In addition, the words "frivolous" and "totality" are not defined with particularity, nor is there any guidance in the bill as to how these terms should be interpreted. While the bill is a meritorious effort to curtail inappropriate litigation as well as the prolonging of litigation, more needs to be included in such a statute to improve the remedies currently provided by law and guidance to accomplish the desired result.

For these reasons, I have vetoed House Bill No. 1051 and am returning it to the House of Representatives.

Sincerely,

M.J. "Mike" Foster, Jr.

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