

AMENDMENTS TO LB935

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Sec. 2.** Section 25-824, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 25-824 (1) A pleading shall not be used against a party in any
6 criminal prosecution or action or proceeding for a penalty or forfeiture
7 as proof of a fact admitted or alleged in such pleading. If a pleading is
8 frivolous or made in bad faith, it may be stricken. The signature of a
9 party or of an attorney on a pleading constitutes a certificate by him or
10 her that he or she has read the pleading; that to the best of his or her
11 knowledge, information, and belief there is good ground for the filing of
12 the pleading; and that it is not interposed for delay.

13 (2) Except as provided in subsections (6) ~~(5)~~ and (7) ~~(6)~~ of this
14 section, in any civil action commenced or appealed in any court of record
15 in this state, the court shall award as part of its judgment and in
16 addition to any other costs otherwise assessed reasonable attorney's fees
17 and court costs against any attorney or party who has brought or defended
18 a civil action that alleges a claim or defense which a court determines
19 is frivolous or made in bad faith.

20 ~~(3) When a court determines reasonable attorney's fees or costs~~
21 ~~should be assessed, it shall allocate the payment of such fees or costs~~
22 ~~among the offending attorneys and parties as it determines most just and~~
23 ~~may charge such amount or portion thereof to any offending attorney or~~
24 ~~party.~~

25 (3) ~~(4)~~ The court shall assess attorney's fees and costs if, upon
26 the motion of any party or the court itself, the court finds that an
27 attorney or party brought or defended an action or any part of an action

1 that was frivolous or that the action or any part of the action was
2 interposed solely for delay or harassment. If the court finds that an
3 attorney or party unnecessarily expanded the proceedings by other
4 improper conduct, including, but not limited to, abuses of civil
5 discovery procedures, the court shall assess attorney's fees and costs.

6 (4)(a) For purposes of this subsection:

7 (i) Claim includes a claim, cross-claim, or counter-claim; and

8 (ii) Political subdivision means any village, city, county, school
9 district, public power district, community college, natural resources
10 district, or other unit of local government.

11 (b) It is the policy of the state to deter frivolous or harassing
12 litigation, especially when it involves frivolous claims or defenses
13 against a political subdivision that necessitate the wasteful expenditure
14 of scarce taxpayer resources.

15 (c) A political subdivision may request an award of costs and
16 attorney's fees as provided in this subsection if:

17 (i) The political subdivision is defendant against a claim that is
18 frivolous or intended primarily to harass the political subdivision or
19 its public officials; or

20 (ii) Another party asserts a defense against a claim of the
21 political subdivision and such defense is frivolous or intended primarily
22 to harass the political subdivision or its public officials.

23 (d) The political subdivision may make such request as a claim or a
24 motion. When a court has determined that judgment will be entered denying
25 a claim or defense against a political subdivision and the political
26 subdivision has filed a claim or motion under this subsection, the court
27 shall conduct a separate hearing as provided in subdivision (4)(e) of
28 this section. Such hearing shall be conducted before entering any order
29 of dismissal or other resolution.

30 (e) At such hearing the court shall determine whether the other
31 party's claim or defense was frivolous or intended primarily to harass

1 the political subdivision or its public officials. If the court
2 determines that a claim or defense was frivolous or intended primarily to
3 harass the political subdivision or its public officials, the party
4 asserting such claim or defense shall have the burden to rebut that
5 finding or show the claim was otherwise excused under subsection (6) or
6 (7) of this section. If such party fails to meet its burden, the court
7 shall award reasonable attorney's fees and other expenses to the
8 political subdivision. A court may award fees and expenses pursuant to
9 this subsection in addition to any compensation awarded in a judgment.

10 (5) When a court determines reasonable attorney's fees or costs
11 should be assessed, it shall allocate the payment of such fees or costs
12 among the offending attorneys and parties as the court determines most
13 just and may charge such amount or portion thereof to any offending
14 attorney or party.

15 (6) ~~(5)~~ No attorney's fees or costs shall be assessed if a claim or
16 defense was asserted by an attorney or party in a good faith attempt to
17 establish a new theory of law in this state or if, after filing suit, a
18 voluntary dismissal is filed as to any claim or action within a
19 reasonable time after the attorney or party filing the dismissal knew or
20 reasonably should have known that he or she would not prevail on such
21 claim or action.

22 (7) ~~(6)~~ No party who is appearing without an attorney shall be
23 assessed attorney's fees unless the court finds that the party clearly
24 knew or reasonably should have known that his or her action or defense or
25 any part of such action or defense was frivolous or made in bad faith,
26 except that this subsection shall not apply to any situation in which an
27 attorney licensed to practice law in the state is appearing without an
28 attorney, in which case he or she shall be held to the standards for
29 attorneys prescribed in this section.

30 **Sec. 3.** Section 25-1802, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 25-1802 For purposes of sections 25-1802 to 25-1807, unless the
2 context otherwise requires:

3 (1) Fees and other expenses means ~~shall mean~~ reasonable attorney's
4 fees and the reasonable expense of expert witnesses plus court costs, but
5 shall not include any portion of an attorney's fee or salary paid by a
6 unit of ~~local~~, state, or federal government in the case;

7 (2) Political subdivision means any village, city, county, school
8 district, public power district, community college, natural resources
9 district, or other unit of local government;

10 (3) ~~(2)~~ State means ~~shall mean~~ the State of Nebraska, a state
11 agency, or any official of the state acting in his or her official
12 capacity; and

13 (4) ~~(3)~~ State agency means ~~shall mean~~ any state constitutional
14 office, any state administrative department, or any state board or
15 commission established by an act of the Legislature.

16 **Sec. 4.** Section 25-1804, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 25-1804 (1) A party seeking an award for fees and other expenses
19 pursuant to sections 25-1802 to 25-1807 shall, not later than thirty days
20 after the entry of the final judgment in the action, submit to the court
21 an application which provides evidence of eligibility for an award
22 pursuant to such sections and which specifies the amount sought. If the
23 amount sought includes an attorney's fee or the fee for an expert
24 witness, the application shall include an itemized statement for each
25 such fee indicating the actual time expended in service to the applicant
26 and the rate at which the fees were computed.

27 (2) Notwithstanding any other provision of such sections, fees and
28 other expenses shall be awarded as provided in such sections only to
29 those prevailing parties who are:

30 (a) Natural persons; ~~or~~

31 **(b) Political subdivisions; or**

1 (c) ~~(b)~~ A sole proprietorship, partnership, limited liability
2 company, corporation, association, or public or private organization:

3 (i) That had an average daily employment of fifty persons or less
4 for the twelve months preceding the filing of such action; and

5 (ii) Whose gross receipts for the twelve-month period preceding the
6 filing of the action was two million dollars or less or whose average
7 gross receipts for the three twelve-month periods preceding the filing of
8 such appeal pursuant to the Administrative Procedure Act was two million
9 dollars or less, whichever amount is greater.

10 **Sec. 45.** Sections 35, 36, and 37 of this act become operative on
11 July 1, 2026. Sections 19, 26, 27, 28, 29, 30, 31, 32, 34, 39, and 47 of
12 this act become operative on January 1, 2027. Sections 1, 2, 3, 4, 5, 6,
13 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 33,
14 38, 42, 43, 44, and 48 of this act become operative three calendar months
15 after the adjournment of this legislative session. The other sections of
16 this act become operative on their effective date.

17 **Sec. 46.** If any section in this act or any part of any section is
18 declared invalid or unconstitutional, the declaration shall not affect
19 the validity or constitutionality of the remaining portions.

20 **Sec. 47.** Original section 29-4315, Revised Statutes Cumulative
21 Supplement, 2024, and sections 28-358.01 and 42-927, Revised Statutes
22 Supplement, 2025, are repealed.

23 **Sec. 48.** Original sections 7-203, 25-824, 25-1802, 25-1804, 27-804,
24 29-2204.02, 29-2308, 29-4103, 42-371, 84-941.01, and 86-2,103, Reissue
25 Revised Statutes of Nebraska, sections 28-311.08 and 59-1608.04, Revised
26 Statutes Cumulative Supplement, 2024, and sections 26-102, 26-114,
27 28-101, 28-311.02, 28-311.04, 28-1205, and 28-1206, Revised Statutes
28 Supplement, 2025, are repealed.

29 **Sec. 49.** Original sections 43-1409 and 43-1412.01, Reissue Revised
30 Statutes of Nebraska, are repealed.

31 **Sec. 50.** Since an emergency exists, this act takes effect when

1 passed and approved according to law.