

SUBJECT: Awarding costs and attorney's fees and imposing sanctions in certain suits

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Neave, Cook, Frank, Ramos, Talarico, Wu

1 nay — Vasut

2 absent — Swanson, Leach

WITNESSES: For — Steve Bresnen, Texas Family Law Foundation; (*Registered, but did not testify*: Amy Bresnen, Texas Family Law Foundation; Carlos Flores; Robert L. Green; Cecilia Wood)

Against — Stuart McMullen, AFPE; Taran Champagne; Brandon Johnson; Jeffrey Morgan; (*Registered, but did not testify*: Rustin Wright, Americans for Parental Equality; and seven individuals)

BACKGROUND: Family Code sec. 6.708 governs costs, attorney's fees, and expenses in a suit for dissolution of marriage. It allows a court as it considers reasonable to award costs to a party. Family Code sec. 106.002 governs costs, attorney's fees, and expenses in a suit affecting the parent-child relationship. It allows a court to render judgment for reasonable attorney's fees and expenses and order the judgment and postjudgment interest to be paid directly to an attorney.

DIGEST: HB 913 would authorize a court with jurisdiction of a suit for the dissolution of a marriage or a suit affecting the parent-child relationship to, on its own motion or on the motion of a party, award reasonable attorney's fees and costs of the suit to a party under certain conditions. It would authorize the awarding of fees and costs if a party had previously removed the suit to federal court and the court with jurisdiction found that the federal court had:

- remanded the proceedings to state court;
- assessed 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 to delay the state court suit or avoid an unfavorable decision by the state court, or filed to gain an advantage over or cause damage to another party in the state court suit.

The bill would authorize the court with jurisdiction to award to the party that did not remove the case to federal court:

- the reasonable attorney's fees and expenses incurred by the party due to the removal;
- other damages incurred by the party due to the removal; and
- postjudgment interest on any attorney's fees, costs, and damages awarded to the party.

The court also could impose monetary sanctions on the party who removed the case to federal court, the removing party's attorney, or both, and take any action as authorized by the Texas Rules of Civil Procedure or other law regarding a party that filed a frivolous pleading or was determined to be a vexatious litigant.

A judgment for attorney's fees and costs of the suit awarded under the provisions of the bill could 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.

The bill would take effect September 1, 2021, and the changes in law made by the bill would apply only to a suit for dissolution of a marriage or a suit affecting the parent-child relationship filed on or after the effective date of the bill.

**SUPPORTERS  
SAY:**

HB 913 would protect Texans embroiled in contentious divorce proceedings or child custody battles from financial harm and delay caused by the other party moving the case from the state court to federal court. By authorizing the state court to award attorney's fees and other costs or to impose monetary sanctions in cases where the court found the reason for

the move to federal court to be frivolous, a delaying tactic, or done to avoid an unfavorable decision by the state court, the bill would help to deter such behavior on the part of some litigants.

**CRITICS  
SAY:**

HB 913 could intimidate and financially penalize individuals who believed they were being treated unfairly by a Texas court from seeking justice in a federal court.