

HB1305\_L.005

## SENATE COMMITTEE OF REFERENCE REPORT

---

 Chairman of Committee

---

 Date
Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB09-1305 be amended as follows:

- 1 Amend reengrossed bill, page 2, strike lines 14 through 16 and substitute  
2 the following:
- 3           "(2) IN ALL CASES IN LAW AND EQUITY, UPON MOTION OF THE  
4 DEFENDANT OR ANY";
- 5 line 18, strike "THE NONRESIDENT"and substitute "A";
- 6 line 23, strike "DOLLARS." and substitute "DOLLARS UNLESS THE COURT  
7 DETERMINES THAT A HIGHER DOLLAR AMOUNT IS NECESSARY IN ORDER TO  
8 AVOID UNDUE FINANCIAL BURDEN TO A PREVAILING DEFENDANT IN THE  
9 EVENT THE PREVAILING DEFENDANT'S COSTS CANNOT BE RECOVERED.".
- 10 Page 3, line 17, strike "BY AN NONRESIDENT";
- 11 line 18, strike "OF THIS STATE";
- 12 line 20, strike "~~or if, in any case,~~ AND" and substitute "or if, in any case,";
- 13 line 21, strike "NONRESIDENT";
- 14 line 25, strike "NONRESIDENT".
- 15 Page 4, strike line 3 and substitute the following:
- 16 "THOUSAND DOLLARS UNLESS THE COURT DETERMINES THAT A HIGHER



1 DOLLAR AMOUNT IS NECESSARY IN ORDER TO AVOID UNDUE FINANCIAL  
2 BURDEN TO A PREVAILING DEFENDANT IN THE EVENT THE PREVAILING  
3 DEFENDANT'S COSTS CANNOT BE RECOVERED. IF, UPON A SHOWING THAT,  
4 DESPITE REASONABLE EFFORTS, THE PLAINTIFF IS NOT ABLE TO OBTAIN AN  
5 INSTRUMENT IN WRITING, THEN THE PROVISIONS OF SECTION 13-16-103  
6 SHALL APPLY. If ~~such~~ THE plaintiff neglects or";

7 after line 8, insert the following:

8 "SECTION 3. 13-16-103 (1), Colorado Revised Statutes, is  
9 amended to read:

10 **13-16-103. Costs of poor person.** (1) If the judge or justice of  
11 any court, including the supreme court, is at any time satisfied that any  
12 person is unable to ~~prosecute or defend any civil action or special~~  
13 ~~proceeding because he is a poor person and unable to pay the costs and~~  
14 ~~expenses thereof~~; OBTAIN AN INSTRUMENT IN WRITING, UPON PROOF OF  
15 THE PERSON'S INABILITY TO OBTAIN AN INSTRUMENT IN WRITING, the judge  
16 or justice ~~in his discretion~~, may SHALL permit such person to commence  
17 and prosecute or defend an action or proceeding without ~~the payment of~~  
18 ~~costs~~; ~~but~~; FILING AN INSTRUMENT IN WRITING; EXCEPT THAT, in the event  
19 such person prosecutes or defends an action or proceeding successfully,  
20 there shall be a judgment entered in his favor for the amount of court  
21 costs which he would have incurred except for the provision of this  
22 section, and this judgment shall be first satisfied out of any money paid  
23 into court, and such costs shall be paid to the court before any such  
24 judgment is satisfied of record."

25 Renumber succeeding section accordingly.

\*\* \*\*\* \*\* \*\*\* \*\*

