

Senate File 2157 - Introduced

SENATE FILE 2157
BY DICKEY

A BILL FOR

1 An Act relating to malicious prosecution arising from civil
2 actions between private parties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **611.24 Malicious prosecution —**
2 **civil actions between private parties.**

3 1. As used in this section:

4 a. "*Malice*" means the initiation of a civil action for a
5 primary purpose other than securing a proper adjudication of the
6 claim.

7 b. "*Probable cause*" means the existence of reasonably known
8 facts and law that would lead a reasonable person to believe,
9 in good faith, that the civil action was legally and factually
10 justified at the time the civil action was initiated.

11 2. A person may bring a civil action for malicious
12 prosecution against a private party who initiated or caused to
13 be initiated a civil action against the person.

14 3. To prevail in an action brought under this section, the
15 plaintiff must prove all of the following:

16 a. The underlying civil action was brought by the defendant
17 and was decided or dismissed in the plaintiff's favor.

18 b. The defendant lacked probable cause to bring the
19 underlying civil action.

20 c. The defendant acted with malice.

21 d. The plaintiff suffered actual damages proximately caused
22 by the malicious prosecution.

23 4. A plaintiff is not required to plead or prove arrest,
24 seizure of property, restraint on liberty, issuance of
25 injunction, or any other heightened or special injury beyond the
26 ordinary burdens or consequences of defending a civil action.

27 5. This section applies only to malicious prosecution actions
28 between private parties. This section shall not be construed
29 to alter, expand, or limit any doctrine governing standing to
30 challenge governmental or public wrongs.

31 **EXPLANATION**

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to malicious prosecution arising from civil
35 actions between private parties.

1 The bill defines "malice" as the initiation of a civil action
2 for a primary purpose other than securing a proper adjudication
3 of the claim, and "probable cause" as the existence of reasonably
4 known facts and law that would lead a reasonable person to
5 believe, in good faith, that the civil action was legally and
6 factually justified at the time the civil action was initiated.

7 The bill authorizes a person a bring a civil action for
8 malicious prosecution against a private party who initiated or
9 caused to be initiated a civil action against the person. To
10 prevail, the plaintiff must prove that the underlying action
11 was brought by the defendant and decided or dismissed in the
12 plaintiff's favor, that the defendant lacked probable cause to
13 bring the action, that the defendant acted with malice, and that
14 the plaintiff suffered actual damages as a proximate result of
15 the malicious prosecution.

16 The bill specifies that a plaintiff is not required to plead
17 or prove arrest, seizure of property, restraint on liberty,
18 issuance of an injunction, or any other heightened or special
19 injury beyond the ordinary burdens associated with defending a
20 civil action.

21 The bill applies only to malicious prosecution actions between
22 private parties and does not alter any doctrine governing
23 standing to challenge governmental or public wrongs.