

By Senator Campbell

33-205A-00

See HB

1 A bill to be entitled
2 An act relating to vexatious litigants;
3 providing a short title; providing definitions;
4 providing for a court order to require certain
5 plaintiffs to furnish security for certain
6 purposes; providing procedures and
7 requirements; providing limitations; providing
8 exceptions; providing for effect of such court
9 order; prohibiting clerks of court from filing
10 certain actions under certain circumstances;
11 providing procedures; providing for dismissal
12 of certain actions under certain circumstances;
13 requiring clerks of court to file copies of
14 certain court orders with the Florida Supreme
15 Court; providing for cumulative relief;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. (1) This section shall be known as the
21 "Florida Vexatious Litigant Law."

22 (2) As used in section, the term:

23 (a) "Action" means a civil action as defined by the
24 Florida Rules of Civil Procedure.

25 (b) "Defendant" means any person or entity, including
26 a corporation, association, partnership, firm, or governmental
27 entity, against whom an action is or was commenced or is
28 sought to be commenced.

29 (c) "Security" means an undertaking by a vexatious
30 litigant to ensure payment to a defendant in an amount
31 reasonably sufficient to cover the defendant's anticipated,

1 reasonable expenses of litigation, including attorney's fees
2 and taxable costs.

3 (d) "Vexatious litigant" means:

4 1. A person or entity, including an association,
5 partnership, or firm, who or which, in the immediately
6 preceding 5-year period, has commenced, prosecuted, or
7 maintained, pro se, five or more civil actions in any circuit
8 court or county court in this state, except a small claims
9 court, which actions have been finally and adversely
10 determined against such person or entity; or

11 2. Any person or entity previously found to be a
12 vexatious litigant pursuant to this section.

13
14 An action is not deemed to be "finally and adversely
15 determined" if an appeal in that action is pending. If an
16 action has been commenced on behalf of a party by an attorney
17 licensed to practice law in this state, that action is not
18 deemed to be pro se even if the attorney later withdraws from
19 the representation and the party does not retain new counsel.

20 (3)(a) In any action pending in any court of this
21 state, including small claims court, any defendant may move
22 the court, upon notice and hearing, for an order requiring the
23 plaintiff to furnish security. The motion shall be based on
24 the grounds, and supported by a showing, that the plaintiff is
25 a vexatious litigant and is not reasonably likely to prevail
26 on the merits of the action against the moving defendant.

27 (b) At the hearing upon any defendant's motion for an
28 order to post security, the court shall consider any evidence,
29 written or oral, by witness or affidavit, which may be
30 relevant to the consideration of the motion. No determination
31 made by the court in such a hearing shall be admissible on the

1 merits of the action or deemed to be a determination of any
2 issue in the action. If, after hearing the evidence, the
3 court determines that the plaintiff is a vexatious litigant
4 and is not reasonably likely to prevail on the merits of the
5 action against the moving defendant, the court shall order the
6 plaintiff to furnish security to the moving defendant in an
7 amount and within such time as the court deems appropriate.

8 (c) If the plaintiff fails to post security required
9 by an order of the court under this section, the court shall
10 immediately issue an order dismissing the action with
11 prejudice as to the defendant for whose benefit the security
12 was ordered.

13 (d) If a motion for an order to post security is filed
14 prior to the trial in an action, the action shall be
15 automatically stayed and the moving defendant need not plead
16 or otherwise respond to the complaint until 10 days after the
17 motion is denied. If the motion is granted, the moving
18 defendant shall respond or plead no later than 10 days after
19 the required security has been furnished.

20 (4) In addition to any other relief provided in this
21 section, the court in any judicial circuit may, on its own
22 motion or on the motion of any party, enter a prefiling order
23 prohibiting a vexatious litigant from commencing, pro se, any
24 new action in the courts of that circuit without first
25 obtaining leave of the administrative judge of that circuit.
26 Disobedience of such an order may be punished as contempt of
27 court by the administrative judge of that circuit. Leave of
28 court shall be granted by the administrative judge only upon a
29 showing that the proposed action is meritorious and is not
30 being filed for the purpose of delay or harassment. The
31 administrative judge may condition the filing of the proposed

1 action upon the furnishing of security as provided in this
2 section.

3 (5) The clerk of the court shall not file any new
4 action by a vexatious litigant pro se unless the vexatious
5 litigant has obtained an order from the administrative judge
6 permitting such filing. If the clerk of the court mistakenly
7 permits a vexatious litigant to file an action pro se in
8 contravention of a prefiling order, any party to that action
9 may file with the clerk and serve on the plaintiff and all
10 other defendants a notice stating that the plaintiff is a pro
11 se vexatious litigant subject to a prefiling order. The
12 filing of such a notice shall automatically stay the
13 litigation against all defendants to the action. The action
14 shall be automatically dismissed by the administrative judge
15 within 10 days after the filing of such notice unless the
16 plaintiff files a motion for leave to file the action. If the
17 administrative judge issues an order permitting the action to
18 be filed, the defendants need not plead or otherwise respond
19 to the complaint until 10 days after the date of service by
20 the plaintiff, by United States mail, of a copy of the order
21 granting leave to file the action.

22 (6) The clerk of a court shall provide copies of all
23 prefiling orders to the Clerk of the Florida Supreme Court,
24 who shall maintain a registry of all vexatious litigants.

25 (7) The relief provided under this section shall be
26 cumulative to any other relief or remedy available to a
27 defendant under the laws of this state and the Florida Rules
28 of Civil Procedure, including, but not limited to, the relief
29 provided under section 57.105, Florida Statutes.

30 Section 2. This act shall take effect October 1, 2000.

31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

LEGISLATIVE SUMMARY

Provides procedures and requirements for limiting civil actions by a litigant on his or her own behalf after a demonstrated and specified history of unsuccessful actions by such litigant. (See bill for details.)