

By the Committee on Judiciary and Senator Campbell

308-400A-00

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.

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

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20 Section 1. (1) This section may be cited as the
21 "Florida Vexatious Litigant Law."

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

23 (a) "Action" means a civil action governed by the
24 Florida Rules of Civil Procedure and proceedings governed by
25 the Florida Probate Rules, but does not include actions
26 concerning family law matters governed by the Florida Family
27 Law Rules of Procedure or any action in which the Florida
28 Small Claims Rules apply.

29 (b) "Defendant" means any person or entity, including
30 a corporation, association, partnership, firm, or governmental
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1 entity, against whom an action is or was commenced or is
2 sought to be commenced.

3 (c) "Security" means an undertaking by a vexatious
4 litigant to ensure payment to a defendant in an amount
5 reasonably sufficient to cover the defendant's anticipated,
6 reasonable expenses of litigation, including attorney's fees
7 and taxable costs.

8 (d) "Vexatious litigant" means:

9 1. A person as defined in section 1.01(3), Florida
10 Statutes, who, in the immediately preceding 5-year period, has
11 commenced, prosecuted, or maintained, pro se, five or more
12 civil actions in any court in this state, except an action
13 governed by the Florida Small Claims Rules, which actions have
14 been finally and adversely determined against such person or
15 entity; or

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

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

25 (3)(a) In any action pending in any court of this
26 state, including actions governed by the Florida Small Claims
27 Rules, any defendant may move the court, upon notice and
28 hearing, for an order requiring the plaintiff to furnish
29 security. The motion shall be based on the grounds, and
30 supported by a showing, that the plaintiff is a vexatious

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1 litigant and is not reasonably likely to prevail on the merits
2 of the action against the moving defendant.

3 (b) At the hearing upon any defendant's motion for an
4 order to post security, the court shall consider any evidence,
5 written or oral, by witness or affidavit, which may be
6 relevant to the consideration of the motion. No determination
7 made by the court in such a hearing shall be admissible on the
8 merits of the action or deemed to be a determination of any
9 issue in the action. If, after hearing the evidence, the court
10 determines that the plaintiff is a vexatious litigant and is
11 not reasonably likely to prevail on the merits of the action
12 against the moving defendant, the court shall order the
13 plaintiff to furnish security to the moving defendant in an
14 amount and within such time as the court deems appropriate.

15 (c) If the plaintiff fails to post security required
16 by an order of the court under this section, the court shall
17 immediately issue an order dismissing the action with
18 prejudice as to the defendant for whose benefit the security
19 was ordered.

20 (d) If a motion for an order to post security is filed
21 prior to the trial in an action, the action shall be
22 automatically stayed and the moving defendant need not plead
23 or otherwise respond to the complaint until 10 days after the
24 motion is denied. If the motion is granted, the moving
25 defendant shall respond or plead no later than 10 days after
26 the required security has been furnished.

27 (4) In addition to any other relief provided in this
28 section, the court in any judicial circuit may, on its own
29 motion or on the motion of any party, enter a prefiling order
30 prohibiting a vexatious litigant from commencing, pro se, any
31 new action in the courts of that circuit without first

1 obtaining leave of the administrative judge of that circuit.
2 Disobedience of such an order may be punished as contempt of
3 court by the administrative judge of that circuit. Leave of
4 court shall be granted by the administrative judge only upon a
5 showing that the proposed action is meritorious and is not
6 being filed for the purpose of delay or harassment. The
7 administrative judge may condition the filing of the proposed
8 action upon the furnishing of security as provided in this
9 section.

10 (5) The clerk of the court shall not file any new
11 action by a vexatious litigant pro se unless the vexatious
12 litigant has obtained an order from the administrative judge
13 permitting such filing. If the clerk of the court mistakenly
14 permits a vexatious litigant to file an action pro se in
15 contravention of a prefiling order, any party to that action
16 may file with the clerk and serve on the plaintiff and all
17 other defendants a notice stating that the plaintiff is a pro
18 se vexatious litigant subject to a prefiling order. The filing
19 of such a notice shall automatically stay the litigation
20 against all defendants to the action. The administrative judge
21 shall automatically dismiss the action with prejudice within
22 10 days after the filing of such notice unless the plaintiff
23 files a motion for leave to file the action. If the
24 administrative judge issues an order permitting the action to
25 be filed, the defendants need not plead or otherwise respond
26 to the complaint until 10 days after the date of service by
27 the plaintiff, by United States mail, of a copy of the order
28 granting leave to file the action.

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

1 (7) The relief provided under this section shall be
2 cumulative to any other relief or remedy available to a
3 defendant under the laws of this state and the Florida Rules
4 of Civil Procedure, including, but not limited to, the relief
5 provided under section 57.105, Florida Statutes.

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

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 SB 154

11 Revises the definition of the term action to include
12 proceedings governed by the Florida Probate Rules.

13 Revises the definition of the term person to mean that term as
14 defined in s. 1.01(3), F.S., which eliminates unnecessary
15 references to firms, associations, and partnerships.

16 Clarifies a pro se litigant can be declared vexatious when
17 that person has had five or more actions terminated against
18 such person in any court in this state.

19 Clarifies that, when the clerk of court mistakenly permits a
20 vexatious litigant to file an action pro se in contravention
21 of a prefiling order and a party files a notice that the
22 plaintiff is subject to a prefiling order, the administrative
23 judge shall automatically dismiss the action with prejudice.

24 Makes a technical change to use the correct nomenclature when
25 referring to civil actions governed by the Florida Small
26 Claims Rules. The phrase "small claims court" is deleted and
27 replaced with terminology reflecting it is an action governed
28 by the Florida Small Claims Rules as opposed to an action in
29 small claims court.
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