

By Representative Goodlette

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 s. 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.

