

585-185AX-06

Amendment No. 2 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Ritter offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause

and insert:

Section 1. Section 25.3835, Florida Statutes, is created to read:

25.3835 Court reporting; purpose; definition; registration required; registry of court reporters created; registration number required on transcripts.--

(1) PURPOSE.--The Legislature recognizes that there is a public need for independent court reporters and that it is necessary to assure the public and litigants that they will always be able to identify and locate a court reporter who recorded and transcribed any portion of an official proceeding, testimony, deposition, or trial and, therefore, deems it necessary to require registration of court reporters.

(2) COURT REPORTING DEFINED.--The term "court reporting" means the act of making a verbatim record of spoken word, whether by use of written symbols, stenomask equipment,

1 or electronic devices, in any proceeding pending in any of the  
2 state or federal courts of the state, including all discovery  
3 proceedings conducted in connection therewith, and all  
4 proceedings required by statute to be reported by a certified  
5 or official court reporter or any administrative hearing or  
6 official proceeding. Court reporting does not include the act  
7 of electronic recording or the transcription of any electronic  
8 recording.

9 (3) REGISTRATION REQUIRED.--Notwithstanding s. 25.383,  
10 effective January 1, 2003, all court reporters must be  
11 registered with the Florida Court Reporters Association.

12 (4) REGISTRY OF COURT REPORTERS CREATED.--The Florida  
13 Court Reporters Association is authorized to create and  
14 maintain a registry of all court reporters who transcribe any  
15 proceeding held in the state. The association shall determine  
16 an annual fee to be collected by the association for the  
17 purpose of maintaining a statewide registry of all Florida  
18 court reporters. The registration fee must cover the normal  
19 and customary costs associated with the creation and  
20 maintenance of the registry. Upon registration, the  
21 association shall issue each court reporter a registration  
22 number that must appear on all transcripts taken or used in  
23 any court proceeding, administrative hearing, or official  
24 meeting of any public body. The Florida Court Reporters  
25 Association shall make available to the general public upon  
26 request the current business location information for any  
27 court reporter registered within the state.

28 (5) REGISTRATION NUMBER REQUIRED ON ALL  
29 TRANSCRIPTS.--Effective June 1, 2003, all transcripts taken or  
30 transcribed by any court reporter in any proceeding must  
31 contain the registration number of the court reporter who

1 recorded and transcribed the proceeding.

2 Section 2. Section 57.105, Florida Statutes, is  
3 amended to read:

4 57.105 Attorney's fee; sanctions for raising  
5 unsupported claims or defenses; service of motions; damages  
6 for delay of litigation.--

7 (1) Upon the court's initiative or motion of any  
8 party, the court shall award a reasonable attorney's fee to be  
9 paid to the prevailing party in equal amounts by the losing  
10 party and the losing party's attorney on any claim or defense  
11 at any time during a civil proceeding or action in which the  
12 court finds that the losing party or the losing party's  
13 attorney knew or should have known that a claim or defense  
14 when initially presented to the court or at any time before  
15 trial:

16 (a) Was not supported by the material facts necessary  
17 to establish the claim or defense; or

18 (b) Would not be supported by the application of  
19 then-existing law to those material facts.

20  
21 However, the losing party's attorney is not personally  
22 responsible if he or she has acted in good faith, based on the  
23 representations of his or her client as to the existence of  
24 those material facts. If the court awards attorney's fees to a  
25 claimant pursuant to this subsection, the court shall also  
26 award prejudgment interest.

27 (2) Paragraph (1)(b) does not apply if the court  
28 determines that the claim or defense was initially presented  
29 to the court as a good faith argument for the extension,  
30 modification, or reversal of existing law or the establishment  
31 of new law, as it applied to the material facts, with a

1 reasonable expectation of success.

2 (3) At any time in any civil proceeding or action in  
3 which the moving party proves by a preponderance of the  
4 evidence that any action taken by the opposing party,  
5 including, but not limited to, the filing of any pleading or  
6 part thereof, the assertion of or response to any discovery  
7 demand, the assertion of any claim or defense, or the response  
8 to any request by any other party, was taken primarily for the  
9 purpose of unreasonable delay, the court shall award damages  
10 to the moving party for its reasonable expenses incurred in  
11 obtaining the order, which may include attorney's fees, and  
12 other loss resulting from the improper delay.

13 (4) A motion by a party seeking sanctions under this  
14 section must be served but may not be filed with or presented  
15 to the court unless, within 21 days after service of the  
16 motion, the challenged paper, claim, defense, contention,  
17 allegation, or denial is not withdrawn or appropriately  
18 corrected.

19 ~~(5)(4)~~ The provisions of this section are supplemental  
20 to other sanctions or remedies available under law or under  
21 court rules.

22 ~~(6)(5)~~ If a contract contains a provision allowing  
23 attorney's fees to a party when he or she is required to take  
24 any action to enforce the contract, the court may also allow  
25 reasonable attorney's fees to the other party when that party  
26 prevails in any action, whether as plaintiff or defendant,  
27 with respect to the contract. This subsection applies to any  
28 contract entered into on or after October 1, 1988.

29 Section 3. This act shall take effect July 1, 2002.  
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1 ===== T I T L E   A M E N D M E N T =====

2 And the title is amended as follows:

3 remove:   the entire title

4

5 and insert:

6                                   A bill to be entitled

7           An act relating to courts; creating s. 25.3835,

8           F.S.; providing legislative purpose with

9           respect to court reporters; defining the term

10          "court reporting"; requiring court reporters to

11          be registered; creating a registry of court

12          reporters; requiring registration numbers on

13          all transcripts; amending s. 57.105, F.S.;

14          providing for serving of motions seeking

15          sanctions allowed for unsupported claims or

16          defenses or delay of litigation; providing an

17          effective date.

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