

By Senator Campbell

32-610-05

See HB 95

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A bill to be entitled

An act relating to court-ordered payment awards in legal proceedings; amending ss. 61.16 and 742.045, F.S.; authorizing certain court orders to include additional reasonable amounts for certain attorney's fees, suit money, and costs related to certain proceedings; providing an effective date.

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

Section 1. Subsection (1) of section 61.16, Florida Statutes, is amended to read:

61.16 Attorney's fees, suit money, and costs.--

(1) The court may from time to time, after considering the financial resources of both parties, order a party to pay a reasonable amount for attorney's fees, suit money, and the cost to the other party of maintaining or defending any proceeding under this chapter, including enforcement and modification proceedings and appeals. The order may include a reasonable amount for attorney's fees, suit money, and costs incurred by a party for the services performed and costs incurred to establish both the party's entitlement to and the amount of attorney's fees, suit money, and costs to be awarded in the proceeding. In those cases in which an action is brought for enforcement and the court finds that the noncompliant party is without justification in the refusal to follow a court order, the court may not award attorney's fees, suit money, and costs to the noncompliant party. An application for attorney's fees, suit money, or costs, whether temporary or otherwise, shall not require corroborating expert

1 testimony in order to support an award under this chapter. The
2 trial court shall have continuing jurisdiction to make
3 temporary attorney's fees and costs awards reasonably
4 necessary to prosecute or defend an appeal on the same basis
5 and criteria as though the matter were pending before it at
6 the trial level. In all cases, the court may order that the
7 amount be paid directly to the attorney, who may enforce the
8 order in that attorney's name. In determining whether to make
9 attorney's fees and costs awards at the appellate level, the
10 court shall primarily consider the relative financial
11 resources of the parties, unless an appellate party's cause is
12 deemed to be frivolous. In Title IV-D cases, attorney's fees,
13 suit money, and costs, including filing fees, recording fees,
14 mediation costs, service of process fees, and other expenses
15 incurred by the clerk of the circuit court, shall be assessed
16 only against the nonprevailing obligor after the court makes a
17 determination of the nonprevailing obligor's ability to pay
18 such costs and fees. The Department of Revenue shall not be
19 considered a party for purposes of this section; however, fees
20 may be assessed against the department pursuant to s.
21 57.105(1).

22 Section 2. Section 742.045, Florida Statutes, is
23 amended to read:

24 742.045 Attorney's fees, suit money, and costs.--The
25 court may from time to time, after considering the financial
26 resources of both parties, order a party to pay a reasonable
27 amount for attorney's fees, suit money, and the cost to the
28 other party of maintaining or defending any proceeding under
29 this chapter, including enforcement and modification
30 proceedings. The order may include a reasonable amount for
31 attorney's fees, suit money, and costs incurred by a party for

1 the services performed and costs incurred to establish both
2 the party's entitlement to and the amount of attorney's fees,
3 suit money, and costs to be awarded in the proceeding. An
4 application for attorney's fees, suit money, or costs, whether
5 temporary or otherwise, shall not require corroborating expert
6 testimony in order to support an award under this chapter. The
7 court may order that the amount be paid directly to the
8 attorney, who may enforce the order in his or her name. In
9 Title IV-D cases, any costs, including filing fees, recording
10 fees, mediation costs, service of process fees, and other
11 expenses incurred by the clerk of the circuit court, shall be
12 assessed only against the nonprevailing obligor after the
13 court makes a determination of the nonprevailing obligor's
14 ability to pay such costs and fees. The Department of Revenue
15 shall not be considered a party for purposes of this section;
16 however, fees may be assessed against the department pursuant
17 to s. 57.105(1).

18 Section 3. This act shall take effect upon becoming a
19 law.

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