

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
 2 Subcommittee

3 Representative Sapp offered the following:

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Amendment

Remove lines 45-147 and insert:

prosecuted, or maintained, pro se, five or more ~~civil~~ actions in
 any court that in this state, except an action governed by the
~~Florida Small Claims Rules, which actions~~ have been finally and
 adversely determined against such person, except that an action
may not be included for purposes of this subparagraph if the
court finds that the action was commenced, prosecuted, or
maintained in good faith; ~~or entity; or~~

2. After an action has been finally and adversely
determined against the person, repeatedly relitigates or
attempts to relitigate either the validity of the determination

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17 against the same party as to whom the action was finally
18 determined or the cause of action, claim, controversy, or any of
19 the issues of fact or law determined by the final and adverse
20 determination against the same party as to whom the action was
21 finally determined;

22 3. Repeatedly files pleadings, requests for relief, or
23 other documents that have been the subject of previous rulings
24 by the court in the same action;

25 4. Repeatedly files unmeritorious pleadings, requests for
26 relief, or other documents; conducts unnecessary discovery; or
27 engages in other tactics that are frivolous or solely intended
28 to cause unnecessary delay in any action; or

29 5.2. Has been Any person or entity previously found to be
30 a vexatious litigant pursuant to this section or by another
31 state court or a federal court.

32
33 An action is not deemed to be "finally and adversely determined"
34 if an appeal in that action is pending. ~~If an action has been~~
35 ~~commenced on behalf of a party by an attorney licensed to~~
36 ~~practice law in this state, that action is not deemed to be pro~~
37 ~~se even if the attorney later withdraws from the representation~~
38 ~~and the party does not retain new counsel.~~

39 (3) (a) In any action pending in any court of this state,
40 ~~including actions governed by the Florida Small Claims Rules,~~
41 any party defendant may move the court, upon notice and hearing,

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42 for an order requiring an opposing party ~~the plaintiff~~ to
43 furnish security. The motion shall be based on the grounds, and
44 supported by a showing, that the opposing party subject to the
45 motion ~~plaintiff~~ is a vexatious litigant and is not reasonably
46 likely to prevail on the merits of the action against the moving
47 party ~~defendant~~.

48 (b) At the hearing ~~upon any defendant's motion~~ for an
49 order to post security, the court shall consider any evidence,
50 written or oral, by witness or affidavit, which may be relevant
51 to the consideration of the motion. No determination made by the
52 court in such a hearing shall be admissible on the merits of the
53 action or deemed to be a determination of any issue in the
54 action. If, after hearing the evidence, the court determines
55 that the opposing party subject to the motion ~~plaintiff~~ is a
56 vexatious litigant and is not reasonably likely to prevail on
57 the merits of the action against the moving party ~~defendant~~, the
58 court shall order the vexatious litigant ~~plaintiff~~ to furnish
59 security to the moving party ~~defendant~~ in an amount and within
60 such time as the court deems appropriate.

61 (c) If the vexatious litigant ~~plaintiff~~ fails to post
62 security required by an order of the court under this section
63 and the vexatious litigant is:

64 1. A plaintiff or petitioner, the court shall immediately
65 issue an order dismissing the action with prejudice as to the
66 moving party ~~defendant~~ for whose benefit the security was

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67 | ordered; or

68 | 2. A defendant or respondent, the court may immediately
69 | issue an order imposing one or more of the following sanctions,
70 | as appropriate:

71 | a. Denial of the vexatious litigant's request for relief;

72 | b. Striking of the vexatious litigant's pleading or other
73 | document or part thereof; or

74 | c. Rendition of a judgment by default against the
75 | vexatious litigant.

76 | (d) If the ~~a~~ motion for an order to post security is filed
77 | before ~~prior to~~ the trial in an action, the action shall be
78 | automatically stayed and the moving party ~~defendant~~ need not
79 | plead or otherwise respond to the vexatious litigant's
80 | complaint, pleading, request for relief, or other document until
81 | 10 days after the motion for an order to post security is
82 | denied. If the motion for an order to post security is granted,
83 | the moving party ~~defendant~~ shall respond or plead no later than
84 | 10 days after the required security has been furnished.

85 | (4) In addition to any other relief provided in this
86 | section, the court in any judicial circuit may, on its own
87 | motion or on the motion of any party, enter a prefiling order
88 | prohibiting a vexatious litigant from commencing, pro se, any
89 | new action in the courts of that circuit or from filing, pro se,
90 | any pleading, request for relief, or other document in an action
91 | in the courts of that circuit without first obtaining leave of

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92 the court ~~administrative judge of that circuit~~. Disobedience of
93 such an order may be punished as contempt of court ~~by the~~
94 ~~administrative judge of that circuit~~. Leave of court shall be
95 granted by the court ~~administrative judge~~ only upon a showing
96 that the proposed action, pleading, request for relief, or other
97 document is meritorious and is not being filed for the purpose
98 of delay or harassment. The court ~~administrative judge~~ may
99 condition the filing of the proposed action, pleading, request
100 for relief, or other document upon the furnishing of security as
101 provided in this section.

102 (5) The clerk of the court may ~~shall~~ not file any new
103 action or any pleading, request for relief, or other document in
104 an action on behalf of a pro se by a vexatious litigant against
105 whom a prefiling order has been entered ~~pro se~~ unless the
106 vexatious litigant has obtained an order from the court allowing
107 ~~administrative judge permitting~~ such filing. If the clerk of the
108 court mistakenly allows a pro se ~~permits a~~ vexatious litigant to
109 file any new an action or any pleading, request for relief, or