

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

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| BILL #: CS/CS/HB 1559 | COMPANION BILL: CS/CS/SB 1650 (Grall) |
| TITLE: Vexatious Litigants | LINKED BILLS: None |
| SPONSOR(S): Sapp and Fabricio | RELATED BILLS: None |
| FINAL HOUSE FLOOR ACTION: 114 Y's 0 N's | GOVERNOR'S ACTION: Pending |

SUMMARY

Effect of the Bill:

CS/CS/HB 1559 amends [s. 68.093, F.S.](#), strengthening Florida's Vexatious Litigant Law. The bill expands the applicability of the Vexatious Litigant Law to family law matters, small claims court, and adversary probate proceedings. The bill expands the look-back period for designating a litigant as "vexatious," and authorizes the court to consider litigation in other states or in federal court when assessing whether a litigant has met the threshold to be deemed as a vexatious litigant.

Fiscal or Economic Impact:

The bill may have a negative indeterminate fiscal impact on local government revenues and may have a positive impact on private citizens due to the expanded application of the Vexatious Litigant Law.

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ANALYSIS

EFFECT OF THE BILL:

CS/CS/HB 1559 amends [s. 68.093, F.S.](#), strengthening [Florida's Vexatious Litigant Law](#). In response to a 2024 [Workgroup on Vexatious Litigants](#) created by Chief Justice Carlos Muñiz, the bill expands the types of cases that the Vexatious Litigant Law applies to, to include [actions](#) governed by the [Florida Family Law Rules of Procedure](#), the [Florida Small Claims Rules](#), and adversary probate proceedings under [Rule 5.025](#) of the Florida Probate Rules. (Section [1](#)).

Further, with respect to the criterion for designating a litigant as vexatious where the litigant's previous history of filing cases adversely determined against him or her is examined, the bill expands the applicability used for designating a pro se litigant as vexatious by:

- Expanding the look-back period from five years to seven years; and
- Authorizing courts to consider litigation in other states or in federal court. (Section [1](#)).

The bill expands the definition of a [vexatious litigant](#) to include any pro se party¹ who:

- After an action has been finally and adversely decided against them, repeatedly relitigates or attempts to relitigate the validity of the determination, cause of action, claim, controversy, or any issues of fact or law against the same person;
- Repeatedly files pleadings, motions, and other papers that have been the subject of a previous ruling by the court;
- Repeatedly files unmeritorious pleadings, motions, and other papers, or engages in other tactics that are frivolous or solely intended to caused unnecessary delay; or

¹ "Pro se" is a Latin term which means "for oneself, on one's own behalf." When a litigant proceeds without legal counsel, he or she is said to be proceeding "pro se." Cornell Law School, Legal Information Institute, *Pro Se*, https://www.law.cornell.edu/wex/pro_se (last visited March 23, 2025).

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- Has been found to be a vexatious litigant in another state or federal court. (Section [1](#)).

The bill repeals a provision exempting from the Vexatious Litigant Law actions that were commenced on behalf of a party by an attorney who later withdraws, resulting in the party proceeding pro se. As such, even if a pro se litigant who had previously been represented by an attorney, but no longer has legal representation, engages in vexatious litigation, the matter in which the party was originally represented by an attorney may count toward the threshold for determination as a vexatious litigant. (Section [1](#)).

Further, the bill expands the definition of a vexatious litigant to include a wider range of litigants by allowing the court to designate a “party” as vexatious, not just the “plaintiff” or “petitioner.” Thus, applicable [remedies](#) against a Vexatious Litigant may be available to an increased number of parties. As such, the court may impose a [security](#) or surety payment to ensure payment of reasonable litigation expenses against a vexatious party, regardless of whether the vexatious party is the plaintiff in the action. The bill also authorizes pre-filing orders to be entered against defendants and clarifies the point at which an automatic stay imposed under the law against a vexatious litigant is vacated. (Section [1](#)).

If the vexatious litigant fails to post security required by an order of the court and the vexatious litigant is a plaintiff or petitioner, the court shall immediately issue an order dismissing the action with prejudice as to the moving party for whose benefit the security was ordered. (Section [1](#)).

If the vexatious litigant is a defendant or respondent, the court may immediately issue an order imposing one or more of the following sanctions, as appropriate:

- Denial of the vexatious litigant’s request for relief;
- Striking of the vexatious litigant’s pleading or other document or part thereof; or
- Rendition of a judgment by default against the vexatious litigant. (Section [1](#)).

An automatic stay imposed against a vexatious litigant remains in effect until the court:

- In its discretion, vacates the stay;
- Rules, as applicable, on the motion for an order to post security or the motion for leave; or
- Dismisses the action or denies the pleading, request for relief, or other document under [s. 68.093\(5\), F.S.](#) (Section [1](#)).

As such, a litigant who has been identified as a “vexatious litigant,” does not automatically stop being such at any point. However, the vexatious litigant designation can be challenged and potentially overturned by the court if the litigant demonstrates that he or she is no longer engaging in vexatious conduct. (Section [1](#)).

Lastly, the bill provides that any qualifying action that was commenced, prosecuted, or maintained in [good faith](#) does not count towards the threshold amount of cases adversely decided against a litigant that qualify the litigant as a vexatious litigant. (Section [1](#)).

The bill clarifies that a person who has been designated as a vexatious litigant cannot initiate a new action without leave of the court, but does not prohibit a party who has been designated as a vexatious litigant from responding to a lawsuit by filing defensive pleadings. (Section [1](#)).

Subject to the Governor’s veto powers, the effective date of this bill July 1, 2025. (Section [2](#)).

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may reduce court workloads as a result of enforcement of the expanded Vexatious Litigant Law and a potential reduction in filings.

LOCAL GOVERNMENT:

The bill may have a negative indeterminate fiscal impact on court revenues due to the potential reduction of filing fees associated with expanded applicability of the Vexatious Litigant Law.

PRIVATE SECTOR:

The bill may have a positive fiscal impact on private litigants due to the expanded application of the Vexatious Litigant Law and reduction in frivolous and vexatious filings against legitimate parties.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Florida's Vexatious Litigant Law](#)

Vexatious conduct by litigants can impede the court system's ability to timely and justly process cases and efficiently administer justice. Vexatious conduct can take many forms, including:

- Filing multiple meritless lawsuits;
- Attempting to relitigate matters already decided by the court; and
- Submitting documents with harassing, scandalous, or sham materials to the court.²

Such conduct may generate significant work for judges and court personnel and may divert judicial time and resources away from other cases that present legitimate legal matters.³ Further, parties that find themselves litigating against a vexatious litigant will likely have to expend significant time and resources to end the case.⁴

[Definition of a Vexatious Litigant](#)

Florida law defines a "vexatious litigant" as a pro se (unrepresented by an attorney) litigant who in the immediately preceding five-year period has "commenced, prosecuted, or maintained" five or more civil actions in Florida state court, all of which have been finally and adversely determined against the litigant.⁵ An action has not been "finally and adversely determined" if an appeal is pending.⁶

["Action" Defined](#)

Pursuant to [s. 68.093\(2\)\(a\), F.S.](#), and [s. 68.093\(2\)\(d\)\(1\), F.S.](#), "action" refers to any civil action governed by the Rules of Civil Procedure and the Probate rules; current law specifically excludes actions governed by the Florida Rules of Family Law Procedure and the Small Claims Rules from being included as an action for the purpose of the Vexatious Litigant Law. Under current law, an action commenced by counsel who then withdraws from representation is not counted as a pro se action for the purposes of the Vexatious Litigant Law; thus, an action which is originally commenced by an attorney, but later is conducted pro se, does not count towards the number of actions required to meet the threshold of a vexatious litigant.

Designation as a Vexatious Litigant

The current Florida Vexatious Litigant law is not self-executing. That is, a party or the court must take action against a vexatious litigant for the litigant to be designated as vexatious.

² Workgroup on Vexatious Litigants, *Final Report and Recommendation*, 11, Sept. 6, 2024.

³ *Id.*

⁴ *Smith v. Fisher*, 965 So. 2d 205, 209 (Fla. 4th DCA 2007) (providing that "in a frivolous lawsuit, justice delayed is justice denied to a defendant who expends time and money to bring the case to an end.").

⁵ S. [68.093\(1\)\(d\), F.S.](#)

⁶ S. [68.093\(2\)\(d\)\(1\), F.S.](#)

[Remedies](#)

Current law provides two remedies for a vexatious litigant. First, a defendant may move the court to order the plaintiff to furnish a “[security](#).” Under [s. 68.093\(1\)\(c\), F.S.](#), security refers to an amount that must be posted by a vexatious litigant to ensure payment to a defendant in an amount reasonably sufficient to cover the defendant’s anticipated, reasonable expenses of litigation, including attorney fees and taxable costs. Essentially, a security can be viewed as a type of civil bond.

To be successful on a motion for a security, the motion must show that the plaintiff:

- Is a vexatious litigant; and
- Is not likely to prevail on the merits.⁷

If, after a hearing on the motion, the court determines that the two elements are met, the court must order the plaintiff to furnish appropriate security at a time designated by the court.⁸ If the plaintiff subsequently fails to provide security by the time designated by the court, the court must immediately dismiss the action with prejudice as to the moving defendant.⁹

Further, the court, in addition to any other relief permitted by law, “may, on its own motion or on the motion of any party, enter a prefilng order prohibiting a vexatious litigant from commencing, pro se, any new action in the courts of that circuit without first obtaining leave of the administrative judge of that circuit.”¹⁰ That is, the court has the authority to prohibit a vexatious litigant from commencing, pro se, a new action in the court without first obtaining permission from the administrative judge to do so.

Failure to follow the presuit order and obtain permission to file a new action, pro se, by a vexatious litigant, is punishable by contempt.¹¹ Thus, a vexatious litigant may file an action only upon a showing that the proposed action is “meritorious and is not being filed for the purpose of delay or harassment.”¹² In the event that the clerk “mistakenly permits a vexatious litigant to file an action pro se in contravention of a prefilng order,” any party may file and serve a notice stating that the plaintiff is a pro se vexatious litigant subject to a prefilng order.¹³ Such notice subsequently stays the proceeding. If the plaintiff fails to move for leave within ten days of the date the notice was filed, the court must then dismiss the action with prejudice.¹⁴

The Supreme Court must maintain a registry of all vexatious litigants based upon copies of prefilng orders submitted to the Supreme Court from the respective clerk.¹⁵

Vexatious Litigant Registry

The Florida Supreme Court maintains a “Vexatious Litigant Registry” compiled from prefilng orders forwarded to the Florida Supreme Court from the clerk of the court who has designated a person as a vexatious litigant. As of July 13, 2024, the Florida Vexatious Litigant Registry had 210 entries since 2003 for 107 individuals.¹⁶ All 20 judicial circuits and 52 of Florida’s 67 counties (78%) are reflected on the registry.

⁷ S. [68.093\(3\)\(a\), F.S.](#)

⁸ S. [68.093\(3\)\(b\), F.S.](#)

⁹ S. [68.093\(3\)\(c\), F.S.](#)

¹⁰ S. [68.093\(4\), F.S.](#)

¹¹ *Id.*

¹² *Id.*

¹³ S. [68.093\(5\), F.S.](#)

¹⁴ *Id.*

¹⁵ S. [68.093\(6\), F.S.](#)

¹⁶ *Supra* note 2, Workgroup on Vexatious Litigants, *Final Report and Recommendation*, 18, Sept. 6, 2024.

Article I, [section 21](#) of the Florida Constitution requires Florida Courts be “open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay.” Despite the requirement of open access to courts to every person, two appellate courts have upheld challenges to the Vexatious Litigant Law against constitutional challenges.

The Fourth District Court of Appeal (“DCA”) has held that a “litigant’s right to access [to courts] may be properly restricted if the litigant is abusing the legal process.”¹⁷ The Third DCA agreed with the Fourth DCA, noting that the Vexatious Litigant Law was “narrowly tailored to serve the state’s compelling interest in preventing vexatious litigants from interfering with the court system’s proper administration of justice.”¹⁸

A number of other states have Vexatious Litigant laws, including, California, Iowa, Hawaii, Ohio, and Texas.¹⁹ Florida was the sixth state in the country to enact a Vexatious Litigant Law.²⁰ After Florida enacted its Vexatious Litigant Law in 2000, eight additional states follow suit by enacting similar laws or rules of procedure, including Arizona, Idaho, Michigan, Minnesota, New Hampshire, North Dakota, Nevada, and Utah.²¹ To date, all state Vexatious Litigant Laws have been upheld as constitutional or have not been challenged on appeal.²²

[2024 Workgroup and Report on Vexatious Litigants](#)

The Workgroup on Vexatious Litigants (“Workgroup”) was established by [Administrative Order No. AOSC24-19](#) to “enhance the effectiveness of Florida’s Vexatious Litigant Law and to address issues related to the public disclosure and harmful and defamatory content in noncriminal court filings.”²³ The Workgroup sought to quantify the impact of vexatious litigation on the Florida Court System and surveyed DCA judges, trial court judges, trial court administrators, DCA clerks, and trial court clerks regarding improper litigation.²⁴

The Workgroup consisted of two appellate judges, one circuit court judge, and two private attorneys, all of who are members of the Judicial Management Council.²⁵ The Workgroup met over a period of five months to conduct research and compose its Final Report and Recommendation.

The 2024 Workgroup found that the Florida Vexatious Litigant Law should be expanded to cover a wider range of improper conduct. Specifically, the Workgroup, through surveys received, recognized a need to broaden the current Vexatious Litigant Law to include small claims and family cases. One survey response provided that “we see in family divisions some litigants filing countless motions for contempt, emergency motions, excessive motions for rehearing, and even various ‘complaints’ against the judiciary. There should be a standard to which we as judges can equally hold all litigants in scenarios where the litigation process is abused.”²⁶ Another survey response noted that “the problem of vexatiousness in family cases arises not by the number of actions, but rather the number of post judgment filings in an action.”²⁷

¹⁷ *Smith v. Fisher*, 965 So. 2d 205, 208 (Fla. 4th DCA 2007).

¹⁸ *Brown v. Miami-Dade Cnty.*, 319 So. 3d 83, 84 (Fla. 3d DCA 2021).

¹⁹ *Supra* note 2, *Final Report* at 19.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 4.

²⁴ *Id.* at 11.

²⁵ *Id.* at 6.

²⁶ *Id.* at 25.

²⁷ *Id.*

Family Law Cases

A Family Court case is a legal action filed in circuit court to settle all cases involving children and families. In Florida, the Family Law Courts have jurisdiction over a number of different types of cases, including:

- Dissolution of marriage (divorce).
- Annulment.
- Support unconnected with dissolution of marriage.
- Paternity.
- Child Support.
- Uniform Interstate Family Support Act.
- Custodial care of and access to children.
- Proceedings for temporary or concurrent custody of minor children by extended family.
- Adoption.
- Name change.
- Declaratory judgment actions related to premarital, marital, or post marital agreements.
- Civil domestic, repeat violence, dating violence, stalking, and sexual violence injunctions.
- Juvenile delinquency.
- Termination of parental rights.
- Juvenile dependency.
- Emancipation of a minor.
- Children in Need of Services (“CINS”) and Families in Need of Services (FINS).
- Truancy.
- Modifications and enforcement of orders.²⁸

Florida’s Family Court uses a fully integrated, comprehensive approach to handling all cases involving children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost effective manner.²⁹ Florida Family Court cases are governed by the [Florida Family Law Rules of Procedure](#).

Small Claims Cases

A small claims case is a legal action filed in county court to settle minor legal disputes where the dollar amount involved is \$8,000 or less.³⁰ Small claims cases are governed by the [Florida Small Claims Rules](#).

Rule 5.025 of the Florida Probate Rules

Probate matters are legal actions filed in the circuit court pertaining to a deceased person’s estate. Probate refers to the court-supervised process for identifying and gathering the assets of a deceased person (decedent), paying the decedent’s debts, and distributing the decedent’s assets to his or her beneficiaries.³¹ Florida probate matters are governed by the [Florida Probate Rules](#).

While many probate proceedings are routine and uncontested, contested probate proceedings fall under Rule 5.025, Florida Probate Rules, and are expressly covered by the [Rules of Civil Procedure](#), except for Rule 1.525, which establishes procedures for seeking a judgment taxing attorney fees or costs in civil cases.³² The 2024 Workgroup concluded that any vexatious litigation in a probate proceeding would naturally fall under Rule 5.025,

²⁸ Florida Courts, *Family Court in Florida*, <https://www.flcourts.gov/Resources-Services/Office-of-Family-Courts/Family-Court-in-Florida> (last visited March 24, 2025).

²⁹ *Id.*

³⁰ Florida Courts Help, *Small Claims*, <https://help.flcourts.gov/Other-Resources/Small-Claims> (last visited March 24, 2025).

³¹ The Florida Bar, *Consumer Pamphlet: Probate in Florida*, <https://www.floridabar.org/public/consumer/pamphlet026/> (last visited March 24, 2025).

³² *Supra*, note 2 at 27.

and therefore application of the Florida Vexatious Litigant Law should be limited to adversary probate proceedings.³³

Good Faith

In legal matters, “good faith,” is generally used to encompass honest dealing.³⁴ Depending on the exact setting, good faith may require an honest belief or purpose, faithful performance of duties, observance of fair dealing standards, or an absence of fraudulent intent.³⁵

OTHER RESOURCES:

[Workgroup on Vexatious Litigants, Final Report and Recommendations \(Sept. 6, 2024\).](#)

[Florida Vexatious Litigants List.](#)

[Florida Family Law Rules of Procedure.](#)

[Florida Small Claims Rules.](#)

[Florida Probate Rules.](#)

³³ *Id.*

³⁴ Cornell Law School, Legal Information Institute, *Good Faith*, https://www.law.cornell.edu/wex/good_faith (last visited March 24, 2025).

³⁵ *Id.*