



317146

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

Senator Grall moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 61.16, Florida Statutes, is amended to
read:

61.16 Attorney ~~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 ~~attorney's~~ fees, suit money, and
the cost to the other party of maintaining or defending any



317146

12 proceeding seeking relief under this chapter, including
13 enforcement, ~~and~~ modification, and appellate proceedings and
14 appeals.

15 (2) An award of attorney fees, suit money, and costs,
16 whether temporary or final, may be awarded retroactively and
17 prospectively as equity requires. Attorney fees, suit money, and
18 costs incurred in pursuing an award of such fees, money, and
19 costs may be included in any award under this section.

20 (3) In those cases in which an action is brought for
21 enforcement and the court finds that the noncompliant party is
22 without justification in the refusal to follow a court order,
23 the court may not award attorney ~~attorney's~~ fees, suit money,
24 and costs to the noncompliant party in the enforcement action.

25 (4) An application for attorney ~~attorney's~~ fees, suit
26 money, or costs, whether temporary or final ~~otherwise,~~ may shall
27 not require corroborating expert testimony in order to support
28 an award under this chapter.

29 (5) The trial court has ~~shall have~~ continuing jurisdiction
30 to make temporary attorney ~~attorney's~~ fees and costs awards
31 reasonably necessary to prosecute or defend an appeal on the
32 same basis and criteria as though the matter were pending before
33 it at the trial level.

34 (6) In determining the amount of an award of attorney fees,
35 suit money, and costs, the court may consider whether a good
36 faith offer of settlement was rejected.

37 (7) (a) If a party directly engages in vexatious or bad
38 faith litigation, the court may:

39 1. Award attorney fees, suit money, and costs as a sanction
40 against the opposing party; or



317146

41 2. Deny or reduce an award of attorney fees, suit money,
42 and costs to the offending party.

43 (b) An order entered under this subsection addressing
44 vexatious or bad faith litigation must include written findings
45 identifying the specific conduct the party engaged in and the
46 reasons the court granted, denied, or reduced such fees, money,
47 and costs ~~In all cases, the court may order that the amount be~~
48 ~~paid directly to the attorney, who may enforce the order in that~~
49 ~~attorney's name.~~

50 (8) In determining whether to make attorney attorney's fees
51 and costs awards at the appellate level, the court shall
52 primarily consider the relative financial resources of the
53 parties, unless an appellate party's cause is deemed to be
54 frivolous.

55 (9) In all cases, the court may order that the award of
56 attorney fees, suit money, and costs be paid directly to the
57 attorney, who may enforce such order in his or her name.
58 However, payment of support owed to the obligee has priority
59 over fees, costs, and expenses.

60 (10) In Title IV-D cases, attorney attorney's fees, suit
61 money, and costs, including filing fees, recording fees,
62 mediation costs, service of process fees, and other expenses
63 incurred by the clerk of the circuit court, shall be assessed
64 only against the nonprevailing obligor after the court makes a
65 determination of the nonprevailing obligor's ability to pay such
66 costs and fees. The Department of Revenue may shall not be
67 considered a party for purposes of this section; however, fees
68 may be assessed against the department pursuant to s. 57.105(1).

69 (11)-(2) In an action brought pursuant to Rule 3.840,



317146

70 Florida Rules of Criminal Procedure, whether denominated direct
71 or indirect criminal contempt, the court may ~~shall have~~
72 ~~authority to:~~

73 (a) Appoint an attorney to prosecute such ~~said~~ contempt.

74 (b) Assess attorney ~~attorney's~~ fees and costs against the
75 ~~contemnor~~ ~~contemptor~~ after the court makes a determination of
76 the contemnor's ~~contemptor's~~ ability to pay such costs and fees.

77 (c) Order that the amount be paid directly to the attorney,
78 who may enforce the order in his or her name.

79 Section 2. Section 742.045, Florida Statutes, is amended to
80 read:

81 742.045 Attorney ~~Attorney's~~ fees, suit money, and costs.—

82 (1) The court may from time to time, after considering the
83 financial resources of both parties, order a party to pay a
84 reasonable amount for attorney ~~attorney's~~ fees, suit money, and
85 the cost to the other party of maintaining or defending any
86 proceeding seeking relief under this chapter, including
87 enforcement, ~~and~~ modification, and appellate proceedings.

88 (2) An award of attorney fees, suit money, and costs,
89 whether temporary or final, may be awarded retroactively and
90 prospectively as equity requires. Attorney fees, suit money, and
91 costs incurred in pursuing an award of such fees, money, and
92 costs may be included in any award under this section.

93 (3) In those cases in which an action is brought for
94 enforcement and the court finds that the noncompliant party is
95 without justification in the refusal to follow a court order,
96 the court may not award attorney fees, suit money, and costs to
97 the noncompliant party in the enforcement action.

98 (4) An application for attorney ~~attorney's~~ fees, suit



317146

99 money, or costs, whether temporary or final ~~otherwise~~, may shall
100 not require corroborating expert testimony in order to support
101 an award under this chapter.

102 (5) The trial court has continuing jurisdiction to make
103 temporary attorney fees and costs awards reasonably necessary to
104 prosecute or defend an appeal on the same basis and criteria as
105 though the matter were pending before it at the trial level.

106 (6) In determining the amount of an award of attorney fees,
107 suit money, and costs, the court may consider whether a good
108 faith offer of settlement was rejected.

109 (7) (a) If a party directly engages in vexatious or bad
110 faith litigation, the court may:

111 1. Award attorney fees, suit money, and costs as a sanction
112 against the opposing party; or

113 2. Deny or reduce an award of attorney fees, suit money,
114 and costs to the offending party.

115 (b) An order entered under this subsection addressing
116 vexatious or bad faith litigation must include written findings
117 identifying the specific conduct the party engaged in and the
118 reasons the court granted, denied, or reduced such fees, money,
119 and costs.

120 (8) In determining whether to make attorney fees and costs
121 awards at the appellate level, the court shall primarily
122 consider the relative financial resources of the parties, unless
123 an appellate party's cause is deemed to be frivolous.

124 (9) In all cases, the court may order that the award of
125 attorney fees, suit money, and costs amount ~~amount~~ be paid directly to
126 the attorney, who may enforce the order in his or her name.
127 However, payment of support owed to the obligee has priority



317146

128 over fees, costs, and expenses.

129 (10) In Title IV-D cases, attorney fees, suit money, and
130 any costs, including filing fees, recording fees, mediation
131 costs, service of process fees, and other expenses incurred by
132 the clerk of the circuit court, shall be assessed only against
133 the nonprevailing obligor after the court makes a determination
134 of the nonprevailing obligor's ability to pay such costs and
135 fees. The Department of Revenue ~~may~~ shall not be considered a
136 party for purposes of this section; however, fees may be
137 assessed against the department pursuant to s. 57.105(1).

138 (11) In an action brought pursuant to Rule 3.840, Florida
139 Rules of Criminal Procedure, whether denominated direct or
140 indirect criminal contempt, the court may:

141 (a) Appoint an attorney to prosecute such contempt.

142 (b) Assess attorney fees and costs against the contemnor
143 after the court makes a determination of the contemnor's ability
144 to pay such costs and fees.

145 (c) Order that the amount be paid directly to the attorney,
146 who may enforce the order in his or her name.

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

148
149 ===== T I T L E A M E N D M E N T =====

150 And the title is amended as follows:

151 Delete everything before the enacting clause
152 and insert:

153 A bill to be entitled
154 An act relating to attorney fees, suit money, and
155 costs; amending ss. 61.16 and 742.045, F.S.;

156 authorizing a court to order attorney fees, suit



317146

157 money, and costs in appellate proceedings; providing
158 that an award of attorney fees, suit money, and costs
159 may be awarded retroactively and prospectively;
160 authorizing the inclusion of certain fees, money, and
161 costs in an award of attorney fees, suit money, and
162 costs; prohibiting the award of attorney fees, suit
163 money, and costs under certain circumstances;
164 providing that a trial court has continuing
165 jurisdiction for certain purposes; authorizing the
166 court to consider if a good faith offer of settlement
167 was rejected when awarding attorney fees, suit money,
168 and costs; authorizing the court to award, deny, or
169 reduce attorney fees, suit money, and costs under
170 certain circumstances; requiring the court to consider
171 the relative financial resources of the parties for
172 certain purposes; providing an exception; providing
173 that payment of support owed to the obligee has
174 priority over fees, costs, and expenses; providing
175 that attorney fees and suit money may be assessed only
176 under certain circumstances; authorizing the court to
177 take certain actions in criminal contempt proceedings;
178 providing an effective date.
179