

1 A bill to be entitled
2 An act relating to attorney fees, suit money, and
3 costs; amending s. 61.16, F.S.; providing that an
4 award of attorney fees, suit money, and costs may be
5 awarded retroactively and prospectively; authorizing
6 the inclusion of certain fees, money, and costs in the
7 total award of attorney fees, suit money, and costs;
8 authorizing the court to consider whether a party
9 rejected a good faith offer of settlement when
10 awarding attorney fees, suit money, and costs;
11 authorizing the court to award, deny, or reduce
12 attorney fees, suit money, and costs as a sanction for
13 vexatious or bad faith litigation; requiring the court
14 to make certain written findings; authorizing the
15 court to order an award of attorney fees, suit money,
16 and costs be paid directly to the attorney; providing
17 a presumption that certain parties are entitled to
18 recover attorney fees and costs under certain
19 circumstances; providing that certain relief is
20 cumulative and not exclusive; amending s. 742.045,
21 F.S.; authorizing a court to order attorney fees, suit
22 money, and costs in certain appellate proceedings;
23 providing that an award of attorney fees, suit money,
24 and costs may be awarded retroactively and
25 prospectively; prohibiting a court from awarding

26 attorney fees, suit money, and costs to a noncompliant
27 party under certain circumstances; providing that a
28 trial court has continuing jurisdiction to award
29 temporary appellate attorney fees and costs under a
30 specified basis and criteria; authorizing the court to
31 consider whether a party rejected a good faith offer
32 of settlement when awarding attorney fees, suit money,
33 and costs; authorizing the court to award, deny, or
34 reduce attorney fees, suit money, and costs as a
35 sanction for vexatious or bad faith litigation;
36 requiring the court to make certain written findings;
37 specifying the primary factor for a court to consider
38 in making awards of appellate attorney fees and costs;
39 authorizing the court to order an award of attorney
40 fees, suit money, and costs be paid directly to the
41 attorney; authorizing the court to take certain
42 actions in an action involving criminal contempt;
43 providing a presumption that certain parties are
44 entitled to recover attorney fees and costs under
45 certain circumstances; providing that certain relief
46 is cumulative and not exclusive; providing
47 applicability; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:
50

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

53 61.16 Attorney ~~Attorney's~~ fees, suit money, and costs.—

54 (1) The court may from time to time, after considering the
55 financial resources of both parties, order a party to pay a
56 reasonable amount for attorney ~~attorney's~~ fees, suit money, and
57 the cost to the other party of maintaining or defending any
58 proceeding seeking relief under this chapter, including
59 enforcement, ~~and~~ modification, and appellate proceedings ~~and~~
60 appeals.

61 (2) An award of attorney fees, suit money, and costs,
62 whether temporary or final, may be awarded retroactively and
63 prospectively as equity requires. Attorney fees, suit money, and
64 costs incurred in pursuing an award of such fees, money, and
65 costs may be included in any award under this section.

66 (3) In those cases in which an action is brought for
67 enforcement and the court finds that the noncompliant party is
68 without justification in the refusal to follow a court order,
69 the court must ~~may~~ not award attorney ~~attorney's~~ fees, suit
70 money, and costs to the noncompliant party.

71 (4) An application for attorney ~~attorney's~~ fees, suit
72 money, or costs, whether temporary or final ~~otherwise, must~~
73 ~~shall~~ not require corroborating expert testimony in order to
74 support an award under this chapter.

75 (5) The trial court has ~~shall have~~ continuing jurisdiction

76 to make awards of temporary attorney ~~attorney's~~ fees and costs
77 ~~awards~~ reasonably necessary to prosecute or defend an appeal on
78 the same basis and criteria as though the matter were pending
79 before the court ~~it~~ at the trial level.

80 (6) In determining entitlement to, and the amount of, an
81 award of attorney fees, suit money, and costs, the court may
82 consider whether a good faith offer of settlement was rejected.

83 (7) (a) If a party, directly or through the party's
84 attorney, engages in vexatious or bad faith litigation, the
85 court may:

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

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

90 (b) An order entered under this subsection addressing
91 vexatious or bad faith litigation must include written findings
92 identifying the specific conduct the party engaged in and the
93 reasons the court granted, denied, or reduced such fees, money,
94 and costs ~~In all cases, the court may order that the amount be~~
95 ~~paid directly to the attorney, who may enforce the order in that~~
96 ~~attorney's name.~~

97 (8) In determining whether to make awards of attorney
98 ~~attorney's~~ fees and costs ~~awards~~ at the appellate level, the
99 court shall primarily consider the relative financial resources
100 of the parties, unless an appellate party's cause is deemed to

be frivolous.

(9) In all cases, the court may order that the award of attorney fees, suit money, and costs be paid directly to the attorney, who may enforce such order in his or her name.

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

(11) ~~(2)~~ In an action brought pursuant to Rule 3.840, Florida Rules of Criminal Procedure, whether denominated direct or indirect criminal contempt, the court may ~~shall have~~ authority to:

(a) Appoint an attorney to prosecute said contempt.

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

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

(12) Except in Title IV-D cases, if a party to a proceeding under this chapter files and prevails on a motion for

126 civil contempt under any applicable provision of the Florida
127 Family Law Rules of Procedure, there is a presumption that such
128 party is entitled to recover his or her attorney fees and costs
129 from the contemnor, irrespective of such party's need and the
130 contemnor's ability to pay.

131 (13) The relief provided under this section is cumulative
132 to any relief or remedy available under the laws of this state
133 or the rules of court.

134 **Section 2. Section 742.045, Florida Statutes, is amended**
135 **to read:**

136 742.045 Attorney ~~Attorney's~~ fees, suit money, and costs.—

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

143 (2) An award of attorney fees, suit money, and costs,
144 whether temporary or final, may be awarded retroactively and
145 prospectively as equity requires. Attorney fees, suit money, and
146 costs incurred in pursuing an award of such fees, money, and
147 costs may be included in any award under this section.

148 (3) In those cases in which an action is brought for
149 enforcement and the court finds that the noncompliant party is
150 without justification in the refusal to follow a court order,

151 the court must not award attorney fees, suit money, and costs to
152 the noncompliant party.

153 (4) An application for attorney ~~attorney's~~ fees, suit
154 money, or costs, whether temporary or final ~~otherwise~~, must
155 ~~shall~~ not require corroborating expert testimony in order to
156 support an award under this chapter.

157 (5) The trial court has continuing jurisdiction to make
158 awards of temporary attorney fees and costs reasonably necessary
159 to prosecute or defend an appeal on the same basis and criteria
160 as though the matter were pending before the court at the trial
161 level.

162 (6) In determining entitlement to, and the amount of, an
163 award of attorney fees, suit money, and costs, the court may
164 consider whether a good faith offer of settlement was rejected.

165 (7)(a) If a party, directly or through the party's
166 attorney, engages in vexatious or bad faith litigation, the
167 court may:

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

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

172 (b) An order entered under this subsection addressing
173 vexatious or bad faith litigation must include written findings
174 identifying the specific conduct the party engaged in and the
175 reasons the court granted, denied, or reduced such fees, money,

176 and costs.

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

181 (9) In all cases, the court may order that the award of
182 attorney fees, suit money, and costs ~~amount~~ be paid directly to
183 the attorney, who may enforce such ~~the~~ order in his or her name.

184 (10) In Title IV-D cases, attorney fees, suit money, and
185 ~~any~~ costs, including filing fees, recording fees, mediation
186 costs, service of process fees, and other expenses incurred by
187 the clerk of the circuit court, shall be assessed only against
188 the nonprevailing obligor after the court makes a determination
189 of the nonprevailing obligor's ability to pay such costs and
190 fees. The Department of Revenue must ~~shall~~ not be considered a
191 party for purposes of this section; however, fees may be
192 assessed against the department pursuant to s. 57.105(1).

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

196 (a) Appoint an attorney to prosecute said contempt.

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

200 (c) Order that the amount be paid directly to the

attorney, who may enforce the order in his or her name.

(12) Except in Title IV-D cases, if a party to a proceeding under this chapter files and prevails on a motion for civil contempt under any applicable provision of the Florida Family Law Rules of Procedure, there is a presumption that such party is entitled to recover his or her attorney fees and costs from the contemnor, irrespective of such party's need and the contemnor's ability to pay.

(13) The relief provided under this section is cumulative to any relief or remedy available under the laws of this state or the rules of court.

Section 3. The amendments made to ss. 61.16 and 742.045, Florida Statutes, by this act apply to any action, including those initiated by a supplemental petition, filed on or after the effective date of this act.

Section 4. This act shall take effect upon becoming a law.