

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; requiring
17 the court to include certain written findings of fact
18 when the court finds a party in contempt; providing
19 for the award of attorney fees and costs to a
20 nonoffending party under certain circumstances;
21 providing that certain relief is cumulative and not
22 exclusive; amending s. 742.045, F.S.; authorizing a
23 court to order attorney fees, suit money, and costs in
24 certain appellate proceedings; providing that an award
25 of attorney fees, suit money, and costs may be awarded

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

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

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

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

(3) 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 must ~~may~~ not award attorney ~~attorney's~~ fees, suit money, and costs to the noncompliant party.

(4) An application for attorney ~~attorney's~~ fees, suit money, or costs, whether temporary or final ~~otherwise~~, must ~~shall~~ not require corroborating expert testimony in order to

76 support an award under this chapter.

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

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

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

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

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

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

99 (8) In determining whether to make awards of attorney
100 ~~attorney's~~ fees and costs ~~awards~~ at the appellate level, the

101 court shall primarily consider the relative financial resources
102 of the parties, unless an appellate party's cause is deemed to
103 be frivolous.

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

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

116 (11) ~~(2)~~ In an action brought pursuant to Rule 3.840,
117 Florida Rules of Criminal Procedure, whether denominated direct
118 or indirect criminal contempt, the court may ~~shall have~~
119 ~~authority to:~~

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

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

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

(12) Except in Title IV-D cases, when a party to a proceeding under this chapter refuses or fails to comply with a court order without proper cause and the court makes a finding that the offending party is in contempt, the court must include written findings of fact identifying the offending party's specific willful noncompliant behavior and must order the offending party to pay reasonable court costs and attorney fees incurred by the nonoffending party in connection with the contempt proceedings.

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

742.045 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 proceeding seeking relief under this chapter, including enforcement, ~~and~~ modification, and appellate proceedings.

(2) An award of attorney fees, suit money, and costs, whether temporary or final, may be awarded retroactively and prospectively as equity requires. Attorney fees, suit money, and costs incurred in pursuing an award of such fees, money, and

costs may be included in any award under this section.

(3) 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 must not award attorney fees, suit money, and costs to the noncompliant party.

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

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

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

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

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

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

176 (b) An order entered under this subsection addressing
177 vexatious or bad faith litigation must include written findings
178 identifying the specific conduct the party engaged in and the
179 reasons the court granted, denied, or reduced such fees, money,
180 and costs.

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

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

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

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

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

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

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

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

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

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

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