

By Senator Grall

29-00875-26

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A bill to be entitled
An act relating to attorney fees, suit money, and costs; amending ss. 61.16 and 742.045, F.S.; authorizing a court to order attorney fees, suit money, and costs in appellate proceedings; providing that an award of attorney fees, suit money, and costs may be awarded retroactively and prospectively; authorizing the inclusion of certain fees, money, and costs in an award of attorney fees, suit money, and costs; authorizing the court to consider if a good faith offer of settlement was rejected when awarding attorney fees, suit money, and costs; authorizing the court to award, deny, or reduce attorney fees, suit money, and costs under certain circumstances; requiring the court to make certain written findings; providing 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~~.

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

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

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

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

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

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

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

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

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59 (b) An order entered under this subsection addressing
60 vexatious or bad faith litigation must include written findings
61 identifying the specific conduct the party engaged in and the
62 reasons the court granted, denied, or reduced such fees, money,
63 and costs ~~In all cases, the court may order that the amount be~~
64 ~~paid directly to the attorney, who may enforce the order in that~~
65 ~~attorney's name.~~

66 (8) In determining whether to make attorney ~~attorney's~~ fees
67 and costs awards at the appellate level, the court shall
68 primarily consider the relative financial resources of the
69 parties, unless an appellate party's cause is deemed to be
70 frivolous.

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

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

83 ~~(11)(2)~~ In an action brought pursuant to Rule 3.840,
84 Florida Rules of Criminal Procedure, whether denominated direct
85 or indirect criminal contempt, the court may ~~shall have~~
86 ~~authority to:~~

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

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(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.

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

(4) 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.

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

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

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

121 (b) An order entered under this subsection addressing
122 vexatious or bad faith litigation must include written findings
123 identifying the specific conduct the party engaged in and the
124 reasons the court granted, denied, or reduced such fees, money,
125 and costs.

126 (6) The court may order that the amount of the attorney
127 fees, suit money, and costs be paid directly to the attorney,
128 who may enforce the order in his or her name.

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

138 Section 3. The amendments made to ss. 61.16 and 742.045,
139 Florida Statutes, by this act apply to any court proceeding
140 pending or filed on or after the effective date of this act.

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