

By the Appropriations Committee on Criminal and Civil Justice;
the Committee on Judiciary; and Senator Grall

604-02975-26

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1 A bill to be entitled
2 An act relating to attorney fees, suit money, and
3 costs; amending ss. 61.16 and 742.045, F.S.;
4 authorizing a court to order attorney fees, suit
5 money, and costs in appellate proceedings; providing
6 that an award of attorney fees, suit money, and costs
7 may be awarded retroactively and prospectively;
8 authorizing the inclusion of certain fees, money, and
9 costs in an award of attorney fees, suit money, and
10 costs; prohibiting the award of attorney fees, suit
11 money, and costs under certain circumstances;
12 providing that a trial court has continuing
13 jurisdiction for certain purposes; authorizing the
14 court to consider if a good faith offer of settlement
15 was rejected when awarding attorney fees, suit money,
16 and costs; authorizing the court to award, deny, or
17 reduce attorney fees, suit money, and costs under
18 certain circumstances; requiring the court to consider
19 the relative financial resources of the parties for
20 certain purposes; providing an exception; providing
21 that payment of support owed to the obligee has
22 priority over fees, costs, and expenses; providing
23 that attorney fees and suit money may be assessed only
24 under certain circumstances; authorizing the court to
25 take certain actions in criminal contempt proceedings;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 61.16, Florida Statutes, is amended to
31 read:

32 61.16 Attorney ~~Attorney's~~ fees, suit money, and costs.—

33 (1) The court may from time to time, after considering the
34 financial resources of both parties, order a party to pay a
35 reasonable amount for attorney ~~attorney's~~ fees, suit money, and
36 the cost to the other party of maintaining or defending any
37 proceeding seeking relief under this chapter, including
38 enforcement, ~~and modification, and appellate proceedings and~~
39 ~~appeals~~.

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

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

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

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

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

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

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

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

68 (b) An order entered under this subsection addressing
69 vexatious or bad faith litigation must include written findings
70 identifying the specific conduct the party engaged in and the
71 reasons the court granted, denied, or reduced such fees, money,
72 and costs ~~In all cases, the court may order that the amount be~~
73 ~~paid directly to the attorney, who may enforce the order in that~~
74 ~~attorney's name.~~

75 (8) In determining whether to make attorney ~~attorney's~~ fees
76 and costs awards at the appellate level, the court shall
77 primarily consider the relative financial resources of the
78 parties, unless an appellate party's cause is deemed to be
79 frivolous.

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

85 (10) In Title IV-D cases, attorney ~~attorney's~~ fees, suit
86 money, and costs, including filing fees, recording fees,
87 mediation costs, service of process fees, and other expenses

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88 incurred by the clerk of the circuit court, shall be assessed
 89 only against the nonprevailing obligor after the court makes a
 90 determination of the nonprevailing obligor's ability to pay such
 91 costs and fees. The Department of Revenue may ~~shall~~ not be
 92 considered a party for purposes of this section; however, fees
 93 may be assessed against the department pursuant to s. 57.105(1).

94 ~~(11)(2)~~ In an action brought pursuant to Rule 3.840,
 95 Florida Rules of Criminal Procedure, whether denominated direct
 96 or indirect criminal contempt, the court may ~~shall have~~
 97 ~~authority to:~~

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

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

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

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

106 742.045 Attorney ~~Attorney's~~ fees, suit money, and costs.—

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

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

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117 costs may be included in any award under this section.

118 (3) In those cases in which an action is brought for
119 enforcement and the court finds that the noncompliant party is
120 without justification in the refusal to follow a court order,
121 the court may not award attorney fees, suit money, and costs to
122 the noncompliant party in the enforcement action.

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

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

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

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

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

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

140 (b) An order entered under this subsection addressing
141 vexatious or bad faith litigation must include written findings
142 identifying the specific conduct the party engaged in and the
143 reasons the court granted, denied, or reduced such fees, money,
144 and costs.

145 (8) In determining whether to make attorney fees and costs

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146 awards at the appellate level, the court shall primarily
147 consider the relative financial resources of the parties, unless
148 an appellate party's cause is deemed to be frivolous.

149 (9) In all cases, the court may order that the award of
150 attorney fees, suit money, and costs ~~amount~~ be paid directly to
151 the attorney, who may enforce the order in his or her name.
152 However, payment of support owed to the obligee has priority
153 over fees, costs, and expenses.

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

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

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

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

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

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