

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 1650

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Judiciary Committee; Senators Grall and Yarborough

SUBJECT: Vexatious Litigants

DATE: April 15, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2. <u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3. <u>Bond</u>	<u>Yeatman</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1650 amends the Florida Vexatious Litigant Law, following suggestions from a workgroup appointed by the Supreme Court to examine the law. A vexatious litigant is one who files pro se meritless actions for the purpose of abusing or harassing the other party. Once found to be a vexatious litigant, a person is barred from filing pro se civil actions without court permission and the posting of security.

The bill expands the scope of the law to apply to small claim cases, counts other instances where a person was found to be a vexatious litigant in another state or in federal court, lowers the threshold of adverse rulings that qualify one as a vexatious litigant from five cases in the past 5 years to a threshold of five cases in the past 7 years, allows a court to find that an individual qualifies as a vexatious litigant based on behavior in a single case, and clarifies that an individual found to be a vexatious litigant is prohibited from pro se filing of a new civil case.. The bill also clarifies language and structure, including removing the terms “plaintiff” and “defendant” with more accurate references to “party.”

The bill may have a negative impact on filing fee revenue due to a decrease in the number of case filings and may increase workload for the clerks of court. See Section V., Fiscal Impact Statement.

The bill is effective July 1, 2025.

II. Present Situation:

Background

The term “vexatious” generally means annoying, bothersome or irritating. In the legal context, a vexatious litigant is someone who files lawsuits or pleadings in legal actions which have little chance of succeeding but are intended to annoy someone or cause problems for them.¹ The problem with vexatious litigants is described as follows:

Vexatious conduct by litigants impedes the court system’s ability to timely and justly process cases. This conduct can take many forms. Common examples include: (1) filing multiple meritless lawsuits; (2) attempting to relitigate matters already decided by the court; and (3) submitting documents with harassing, scandalous, or sham material to the court.²

Current Law on Vexatious Litigants

A court has always had the inherent authority to sanction litigants and others appearing before the court for vexatious, bad faith, or oppressive conduct.³ The 2000 Legislature enacted the first law to address the issue of vexatious litigants at s. 68.093, F.S. A vexatious litigant is defined as:

A person . . . who, in the immediately preceding 5-year period, has commenced, prosecuted, or maintained, pro se, five or more civil actions in any court in this state, except an action governed by the Florida Small Claims Rules, which actions have been finally and adversely determined against such person or entity; or any person or entity previously found to be a vexatious litigant.⁴

If a person has been found to be a vexatious litigant, a defendant in any action involving the vexatious litigant may ask the court to order the vexatious litigant to post security before commencing.⁵ If the court finds that person is a vexatious litigant and that the person is unlikely to prevail in the action, the court may order the vexatious litigant to post security before proceeding. The amount and form of security is not specified. The apparent purpose of security is to have a fund from which the defendant can collect attorney fees and costs should the defendant ultimately prevail in defeating the vexatious litigation or motion and the defendant then prevail on a motion for attorney fees and costs related to the litigation or motion.⁶ If the security is not timely posted, the court must dismiss the action with prejudice.

The court may also enter an order prohibiting a vexatious litigant from commencing any new pro se action without permission. A vexatious litigant subject to this order must ask the

¹ Cambridge English Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/vexatious>.

² Workgroup on Vexatious Litigants, *Final Report and Recommendations*, September 6, 2024, at page 11.

³ *Final Report*, at 13.

⁴ Section 68.093(2)(d), F.S.

⁵ Section 68.093(3), F.S.

⁶ In some lawsuits a party may have statutory or contractual right to attorney fees. Attorney fees may also be awarded in civil actions for filing or prosecuting a claim that is without merit. Section 57.105, F.S.

administrative judge of that circuit for permission to file an action. The vexatious litigant must show that the proposed action is meritorious and is not being filed for the purpose of delay or harassment.⁷ The court may require the posting of security. The clerk of the court must refuse to file a lawsuit from a vexatious litigant absent permission of the administrative judge.⁸ The clerk of court must forward a copy of an order finding a person to be a vexatious litigant to the Supreme Court, where a statewide list of vexatious litigants is kept.⁹ Currently, there are 233 entries on the list representing 116 individuals.¹⁰ The Workgroup speculates that there are many more persons who qualify for and should be on the list.¹¹

The Florida Vexatious Litigant Law has not been amended since passage in 2000.

Other statutes address vexatious behavior, notably s. 57.105, F.S., which authorizes a court to award attorney fees and costs to the prevailing party on certain unsupported claims or defenses. If the nonprevailing party was represented, the sanction generally must be paid in equal parts by the losing party and the losing party's attorney.

Perceived Concerns Regarding Current Law

In 2024, the Florida Supreme Court created the Workgroup on Vexatious Litigants. The charge was "to enhance the effectiveness of Florida's Vexatious Litigant Law and to address issues related to the public disclosure of harmful and defamatory content in noncriminal court filings."¹²

The Workgroup found that the current law does not adequately address the harm from vexatious litigation. This harm is not limited to the harm done to defendants who are dragged into the fray. In a recent survey, 18.2% of circuit court judges and 14% of county court judges estimated that dealing with improper litigation consumed more than 10% of their judicial workload.¹³ Only 27% of trial court judges found the current Vexatious Litigant Law effective in addressing improper litigation.¹⁴ The Workgroup suggests that the law "should be expanded to cover a wider range of improper conduct."¹⁵

The Workgroup also recommends that certain court pleadings of a vexatious nature be shielded from public inspection. The recommendation related to public records is reflected in a separate bill.

⁷ Section 68.093(4), F.S.

⁸ Section 68.093(5), F.S.

⁹ Section 68.093(6), F.S.

¹⁰ Vexatious Litigants list dated March 6, 2025. Link to list at: <https://supremecourt.flcourts.gov/About-the-Court/Departments-of-the-Court/Clerk-s-Office>. One individual has 11 findings that he is a vexatious litigant.

¹¹ *Final Report*, at 18.

¹² *Final Report* at 4.

¹³ *Id.* at 11-12.

¹⁴ *Id.* at 13.

¹⁵ *Id.* at 23.

III. Effect of Proposed Changes:

The bill amends and expands the Florida Vexatious Litigant Law to reflect some of the suggestions of the Florida Supreme Court Workgroup.

The test for categorization of one as a vexatious litigant is a formula based on the number of previous adverse rulings of limited types over a limited period of time. The bill expands the definitions of “action” and “vexatious litigant” to:

- Expand the types of actions that apply to include small claims litigation.¹⁶
- Expand the court jurisdictions in which a case filing will apply the formula to include federal courts and courts of other states, where those courts have heard civil matters of a type that would qualify if filed in a Florida court.
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- Expand the look-back period from 5 years to 7 years.
- Remove references to “plaintiff” and “defendant” to more accurately refer to “party.”
- Provide that actions by a pro se party acting after withdrawal of his or her attorney are counted as if the case had initially been filed pro se.
- Provide that an adverse ruling where the person acted in good faith does not count against the person in calculating the number of adverse prior results.

The bill expands the definition of a vexatious litigant to include a person who, in any civil case:

- After an action has been finally and adversely determined against the person, repeatedly relitigates or attempts to relitigate either the validity of the determination against the same party in an action that was finally determined or the cause of action, claim, controversy, or any of the issues of fact or law determined by the final and adverse determination against the same party in an action that was finally determined;
- Repeatedly files pleadings, requests for relief, or other documents that have been the subject of previous rulings by the court in the same action;
- Repeatedly files unmeritorious pleadings, requests for relief, or other documents;
- Repeatedly conducts unnecessary discovery; or,
- Repeatedly engages in other tactics that are frivolous or solely intended to cause unnecessary delay in any action.

Current law also defines a vexatious litigant (in the case at issue) as any person who has previously been found to be a vexatious litigant pursuant to s. 68.093, F.S. The bill expands this to provide that anyone found to be a vexatious litigant in any other state or by any federal court is a vexatious litigant in Florida.

The bill clarifies that a vexatious litigant is barred from the pro se filing of any new civil action. The remedies provisions of the bill are amended to provide that a complaint by a vexatious litigant is subject to dismissal; whereas a motion or other pleading filed by a vexatious litigant is subject to being stricken or denied.

¹⁶ The Small Claim Rules currently apply to a civil action for \$8,000 or less. Fla.Sm.Cl.R. 7.010(b). At the time that this law was passed in 2000, they applied to a civil action for \$2,500 or less.

Where the clerk mistakenly files a new action from a vexatious litigant, or where the court finds that a party qualifies as a vexatious litigant, the bill provides that the action is automatically stayed pending review by the court and possible order requiring the vexatious litigant to post security. The bill also specifies that the automatic stay is in effect until the court acts.

The bill is effective July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may discourage the filing of frivolous lawsuits and allow the private sector to avoid costs for defending against these lawsuits.

C. Government Sector Impact:

The Office of the State Courts Administrator furnished the following information regarding potential workload and fiscal impacts of the bill before it was amended:

If the proposed amendments are enacted, judicial workload to enforce the expanded Florida Vexatious Litigant Law may increase (e.g., conducting hearings and entering orders); however, any increase in judicial workload is expected to be offset by the

reduction in filings by vexatious litigants. The revenue impact of this legislation is indeterminate negative, due to the potential reduction of filing fee revenue associated with expanded applicability of the Florida Vexatious Litigant Law. The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to quantifiably establish the effects on judicial time and workload resulting from enforcement of the expanded Florida Vexatious Litigant Law and a potential reduction in filings.¹⁷

The Florida Court Clerks and Comptrollers provided a bill analysis on CS/SB 1650 and anticipated an increased workload due to the bill's expansion of a person who may be deemed a vexatious litigant. The clerks review process for verifying that a person is not a vexatious litigant is not automated, so there will be a commensurate increase in staff workload for every newly deemed vexatious litigant.¹⁸ This workload can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 68.093 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations Committee on Criminal and Civil Justice on April 11, 2025:

The amendment provided technical changes and:

- Changed the case threshold to qualify as a vexatious litigant from three cases in a specified timeframe to five cases in a specified timeframe.
- Provided that if a person is qualifying as a vexatious litigant due to conducting unnecessary discovery or engaging in other tactics that are frivolous or solely intended to cause unnecessary delay in any action, the conduct must have occurred repeatedly.

¹⁷ Office of the State Courts Administrator, *2025 Judicial Impact Statement for SB 1650*, March 17, 2025, at 4.

¹⁸ The Florida Clerk of Court and Comptrollers, *2025 Judicial Impact Statement for SB 1650*, March 28, 2025.

- Removed language relating to a court entering a prefiling order prohibiting a vexatious litigant from filing, pro se, any pleading, request for relief, or other document in an action in the courts.
- Removed language relating to a vexatious litigant filing any pleadings, request for relief, or other documents with the clerk of the court.

CS by Judiciary on March 19, 2025:

The committee substitute clarified language regarding the filing of a case and the filing of a pleading in a case.

B. Amendments:

None.