

**By** the Committee on Judiciary; and Senator Grall

590-02735-26

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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; providing that payment of support owed to the obligee has priority over fees, costs, and expenses; 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 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

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30 enforcement, and modification, and appellate proceedings and  
31 appeals.

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

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

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

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

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

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

- 56 1. Award attorney fees, suit money, and costs as a sanction  
57 against the opposing party; or
- 58 2. Deny or reduce an award of attorney fees, suit money,

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59 and costs to the offending party.

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

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

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

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

86 (11) ~~(2)~~ In an action brought pursuant to Rule 3.840,  
87 Florida Rules of Criminal Procedure, whether denominated direct

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88 or indirect criminal contempt, the court may shall have  
89 authority to:

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

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

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

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

98 742.045 Attorney Attorney's fees, suit money, and costs.—

99 (1) The court may from time to time, after considering the  
100 financial resources of both parties, order a party to pay a  
101 reasonable amount for attorney attorney's fees, suit money, and  
102 the cost to the other party of maintaining or defending any  
103 proceeding seeking relief under this chapter, including  
104 enforcement, and modification, and appellate proceedings.

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

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

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

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117        (5) (a) If a party directly engages in vexatious or bad  
118        faith litigation, the court may:  
119            1. Award attorney fees, suit money, and costs as a sanction  
120        against the opposing party; or  
121            2. Deny or reduce an award of attorney fees, suit money,  
122        and costs to the offending party.  
123            (b) An order entered under this subsection addressing  
124        vexatious or bad faith litigation must include written findings  
125        identifying the specific conduct the party engaged in and the  
126        reasons the court granted, denied, or reduced such fees, money,  
127        and costs.  
128            (6) The court may order that the amount of the attorney  
129        fees, suit money, and costs be paid directly to the attorney,  
130        who may enforce the order in his or her name. However, payment  
131        of support owed to the obligee has priority over fees, costs,  
132        and expenses.  
133            (7) In Title IV-D cases, any costs, including filing fees,  
134        recording fees, mediation costs, service of process fees, and  
135        other expenses incurred by the clerk of the circuit court, shall  
136        be assessed only against the nonprevailing obligor after the  
137        court makes a determination of the nonprevailing obligor's  
138        ability to pay such costs and fees. The Department of Revenue  
139        may shall not be considered a party for purposes of this  
140        section; however, fees may be assessed against the department  
141        pursuant to s. 57.105(1).

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