A bill to be entitled

An act relating to attorney fees, suit money, and costs; amending s. 61.16, F.S.; 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 the total award of attorney fees, suit money, and costs; authorizing the court to consider whether a party rejected a good faith offer of settlement when awarding attorney fees, suit money, and costs; authorizing the court to award, deny, or reduce attorney fees, suit money, and costs as a sanction for vexatious or bad faith litigation; requiring the court to make certain written findings; authorizing the court to order an award of attorney fees, suit money, and costs be paid directly to the attorney; requiring the court to include certain written findings of fact when the court finds a party in contempt; providing for the award of attorney fees and costs to a nonoffending party under certain circumstances; providing that certain relief is cumulative and not exclusive; amending s. 742.045, F.S.; authorizing a court to order attorney fees, suit money, and costs in certain appellate proceedings; providing that an award of attorney fees, suit money, and costs may be awarded

retroactively and prospectively; prohibiting a court from awarding attorney fees, suit money, and costs to a noncompliant party under certain circumstances; providing that a trial court has continuing jurisdiction to award temporary appellate attorney fees and costs under a specified basis and criteria; authorizing the court to consider whether a party rejected a good faith offer of settlement when awarding attorney fees, suit money, and costs; authorizing the court to award, deny, or reduce attorney fees, suit money, and costs as a sanction for vexatious or bad faith litigation; requiring the court to make certain written findings; specifying the primary factor for a court to consider in making awards of appellate attorney fees and costs; authorizing the court to order an award of attorney fees, suit money, and costs be paid directly to the attorney; authorizing the court to take certain actions in an action involving criminal contempt; providing a presumption that certain parties are entitled to recover attorney fees and costs under certain circumstances; providing that certain relief is cumulative and not exclusive; 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~~.

(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

support an award under this chapter.

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

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

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

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

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

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

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

(a) Appoint an attorney to prosecute said contempt.

(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.

(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.

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

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

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

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

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

(a) Appoint an attorney to prosecute said contempt.

(b) Assess attorney fees and costs against the contemnor after the court makes a determination of the contemnor'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.

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

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

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