**South Carolina General Assembly**

118th Session, 2009-2010

**S. 1189**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Malloy, McConnell, Ford, Pinckney and Rose

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Introduced in the Senate on February 17, 2010

Currently residing in the Senate Committee on **Judiciary**

Summary: Family Court

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/17/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\02-17-10.docx)‑7

2/17/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\02-17-10.docx)‑7

2/19/2010 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis

**VERSIONS OF THIS BILL**

[2/17/2010](file:///p:\pprever\2009-10\1189_20100217.docx)

**A** **BILL**

TO AMEND SECTION 15‑36‑10 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIABILITY FOR ATTORNEY’S FEES AND COSTS OF FRIVOLOUS SUITS, SO AS TO CLARIFY THAT AN ACTION IN FAMILY COURT IS SUBJECT TO THE SOUTH CAROLINA FRIVOLOUS CIVIL PROCEEDINGS SANCTIONS ACT; TO AMEND SECTION 15‑36‑10 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FRIVOLOUS SUITS, TO ADD THAT THE FRIVOLOUS CIVIL PROCEEDINGS SANCTIONS ACT DOES NOT ALTER THE SOUTH CAROLINA FAMILY COURT RULES; AND TO AMEND SECTION 63‑3‑530, RELATING TO THE EXCLUSIVE JURISDICTION OF FAMILY COURT, TO PERMIT A JUDGE TO SANCTION A PARTY WHO FILES A FRIVOLOUS CLAIM OR MOTION IN DOMESTIC MATTERS, AND TO MANDATE THAT JUDGES SANCTION PARTIES WHO FILE A SECOND OR SUBSEQUENT FRIVOLOUS CLAIM OR MOTION WITH THE COURT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15‑36‑10(A) of the 1976 Code, as last amended by Act 27 of 2005, is amended to read:

“Section 15‑36‑10. (A)(1) A pleading filed in a civil, family, or administrative action on behalf of a party who is represented by an attorney must be signed by at least one attorney of record who is an active member of the South Carolina Bar or who is admitted to practice in the courts of this State and must include the address and telephone number of the attorney signing the document.

(2) A document filed in a civil, family, or administrative action by a party who is not represented by an attorney must be signed by the party and must include the address and telephone number of the party.

(3) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:

(a) the person has read the document;

(b) a reasonable attorney in the same circumstances would believe that under the facts his claim or defense may be warranted under the existing law or, if his claim or defense is not warranted under the existing law, a good faith argument exists for the extension, modification, or reversal of existing law;

(c) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of a civil cause is not intended merely to harass or injure the other party; and

(d) a reasonable attorney in the same circumstances would believe his claim or defense is not frivolous, interposed for delay, or brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based.

(4) An attorney or pro se litigant participating in a civil, family, or administrative action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

( i) the person has not read the frivolous pleading, motion, or document;

(ii) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or

(iv) a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;

(b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or

(c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.”

SECTION 2. Section 15‑36‑10(I) of the 1976 Code is amended to read:

“(I) This act shall not alter the South Carolina Rules of Civil Procedure, ~~or~~ the South Carolina Appellate Court Rules, or the South Carolina Family Court Rules.”

SECTION 3. Section 63‑3‑530(A) of the 1976 Code is amended by adding an appropriately numbered subsection at the end to read:

“( ) to sanction a party who files a frivolous claim or motion under Title 20, pursuant to the standards set forth in Section 15‑36‑10. Upon the second or subsequent determination by the court that the requesting party has filed a frivolous claim or motion under Title 20 involving the same litigants, the court must impose sanctions on the requesting party as permitted by state law and the South Carolina Rules of Court.”

SECTION 4. This act takes effect upon approval by the Governor.

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