

1 H.401

2 Introduced by Representative Carroll of Bennington

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; pleading and practice; abusive litigation by self-
6 represented party

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 court to review a civil action filed by a plaintiff who has filed three previous
9 actions as a plaintiff. If the court finds that the action has no basis in law or
10 fact or that it has been brought for the primary purpose of abusing, harassing,
11 intimidating, or threatening the defendant, the court shall require the plaintiff
12 to be represented by an attorney.

13 An act relating to abusive litigation

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 12 V.S.A. § 1043 is added to read:

16 § 1043. ABUSIVE LITIGATION

17 (a) As used in this section:

18 (1) “Abusive litigation” means litigation where:

1 (A) the litigation is being initiated, advanced, or continued
2 primarily for the purpose of abusing, harassing, intimidating, or threatening the
3 defendant;

4 (B) the claims, allegations, or other legal contentions made in the
5 litigation are not warranted by existing law or by a reasonable argument for the
6 extension, modification, or reversal of existing law or the establishment of new
7 law;

8 (C) the allegations and other factual contentions made in the
9 litigation are without the existence of evidentiary support; or

10 (D) an issue or issues that are the basis of the litigation have
11 previously been filed in one or more other courts or jurisdictions and the
12 actions have been litigated and disposed of unfavorably to the party filing,
13 initiating, advancing, or continuing the litigation.

14 (2) “Litigation” means any kind of legal action or proceeding, including:

15 (A) filing a summons, complaint, demand, or petition; or

16 (B) serving a summons, complaint, demand, or petition, regardless of
17 whether it has been filed.

18 (b)(1) If an action is filed in the Civil Division of the Superior Court by a
19 person who has filed three previous actions as a plaintiff, the court shall
20 determine whether the complaint constitutes abusive litigation under this
21 section.

1 (2) If the court finds that the complaint is abusive litigation, the court
2 shall dismiss the complaint unless the plaintiff proves indigency or retains an
3 attorney to represent the plaintiff in the action. If the court dismisses the
4 complaint, the court shall award the defendant reasonable costs, attorney's
5 fees, and damages, including punitive damages if appropriate.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on passage.