

CHAPTER 14-07.6 ABUSIVE LITIGATION

14-07.6-01. Definitions.

1. "Abusive litigation" means litigation in which:
 - a. The parties have or had an intimate partner relationship or any other individual with a sufficient relationship to the abusing individual as determined by the court under section 14-07.7-07;
 - b. The filing party has been found by a court to have committed an act of domestic violence or disorderly conduct against the opposing party pursuant to a court order entered under chapter 14-07.1, 14-09, or 12.1-31.2, or an equivalent ordinance from another state, provided the issuing court made a specific finding of domestic violence or disorderly conduct, or the filing party has a prior conviction relating to domestic violence against the opposing party under chapter 12.1-17;
 - c. There is intent on the part of the filing party to harass, intimidate, maintain contact with, or retaliate against the opposing party; and
 - d. At least one of the following is true:
 - (1) Claims, allegations, and other legal contentions made in the litigation are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;
 - (2) Allegations and other factual contentions made in the litigation lack evidentiary support;
 - (3) The actions comprising the basis of the litigation previously have been filed or litigated in one or more other courts or jurisdictions and have been disposed of unfavorably against the party filing, initiating, advancing, or continuing the litigation; or
 - (4) The filing party has been sanctioned previously for filing, initiating, advancing, or continuing litigation found to be frivolous, vexatious, intransigent, or brought in bad faith.
2. "Filing party" means the party who has filed, initiated, advanced, or continued litigation.
3. "Intimate partner" means a spouse, former spouse, an individual who has a child with a filing party regardless of whether the individual has been married to the filing party or lived with the filing party, or an individual who has or had a dating relationship with the filing party.
4. "Litigation" means any motion, pleading, petition, or other court filing.
5. "Opposing party" means the party against whom the filing party has filed, initiated, advanced, or continued litigation.

14-07.6-02. Burden of proof - Dismissal - Entry of order restricting abusive litigation.

1. If a court finds by a preponderance of the evidence any of the litigation pending before the court constitutes abusive litigation, the court shall dispose of the litigation with prejudice.
2. If the court finds abusive litigation, the court shall enter an order restricting abusive litigation. The order must:
 - a. Impose all costs of the abusive litigation against the filing party; and
 - b. Award the opposing party reasonable attorney's fees and costs associated with responding to the abusive litigation, including the cost of seeking the order restricting abusive litigation.

14-07.6-03. Proceeding when abusive litigation is not present.

If the court finds by a preponderance of the evidence any of the litigation pending before the court does not constitute abusive litigation, the court shall enter written findings to that effect and the portions of the litigation found not to be abusive may proceed.

14-07.6-04. Rules - Authority.

The supreme court may adopt rules to implement this chapter.