

# STATE OF NEW YORK

10654

## IN SENATE

June 4, 2026

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Rules

AN ACT to amend the family court act and the domestic relations law, in  
relation to controlling and abusive litigation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The family court act is amended by adding a new section 159  
2 to read as follows:

3 § 159. Controlling and abusive litigation. (a) As used in this section  
4 "litigation" means any kind of legal action or proceeding including, but  
5 not limited to: filing a summons, complaint, demand, or petition; serv-  
6 ing a summons, complaint, demand, or petition, regardless of whether it  
7 has been filed; filing a motion, notice of court date, or order to  
8 appear; serving a motion, notice of court date, or order to appear,  
9 regardless of whether it has been filed or scheduled; filing a subpoena,  
10 subpoena duces tecum, request for interrogatories, request for  
11 production, notice of deposition, or other discovery request; or serving  
12 a subpoena, subpoena duces tecum, request for interrogatories, request  
13 for production, notice of deposition, or other discovery request.

14 (b) Upon a motion filed pursuant to this section, the court shall  
15 determine whether a party is engaging in controlling and abusive liti-  
16 gation. The court shall find that a party is engaged in controlling and  
17 abusive litigation if said party:

18 1. has committed an act or acts of domestic violence against the other  
19 party in the matter and that party is deemed a victim or victims of  
20 domestic violence as defined by subdivision one of section four hundred  
21 fifty-nine-a of the social services law or the provisions of a substan-  
22 tially similar statute under the laws of another state or the United  
23 States; and

24 2. in bad faith and primarily for the purpose of delay; malicious  
25 injury; or harassing, intimidating, or maintaining contact with the  
26 other party, initiates, advances, or continues litigation against the  
27 party who is the victim or victims of domestic violence; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 3. with regard to litigation initiated, advanced, or continued by the  
2 party allegedly engaging in controlling and abusive litigation, the  
3 court finds by a preponderance of the evidence that:

4 i. claims, allegations, and other legal contentions in the litigation  
5 are without any reasonable basis in law or equity and could not be  
6 supported by a good faith argument for an extension, modification, or  
7 reversal of existing law, an existing order, or the establishment of a  
8 new order; or

9 ii. allegations and other factual contentions in the litigation are  
10 made without evidentiary support; or

11 iii. one or more issues that are the basis of the litigation have  
12 previously been the subject of litigation filed in the same or another  
13 court in this state or any other court of competent jurisdiction and the  
14 actions have been litigated and disposed of unfavorably to the party  
15 alleged to be engaging in controlling and abusive litigation.

16 (c) 1. A motion may be filed at any time to determine whether a party  
17 is engaging in controlling and abusive litigation by a party who is a  
18 victim of domestic violence as defined in subdivision one of section  
19 four hundred fifty-nine-a of the social services law, or on the court's  
20 own motion. If the court verifies that both parties are family or house-  
21 hold members as defined by subdivision two of section four hundred  
22 fifty-nine-a of the social services law and the party raising the claim  
23 of controlling and abusive litigation has been found to be a victim of  
24 domestic violence by the conduct of the other party, or the court is  
25 unable to verify that one element is not true, the court shall set a  
26 hearing to determine whether the litigation is controlling and abusive  
27 litigation. The motion may be filed orally while under oath, or in writ-  
28 ing, in accordance with the rules of court.

29 2. At the time set for the hearing on the alleged controlling and  
30 abusive litigation, the court shall hear all relevant testimony and may  
31 require any affidavits, documentary evidence or other records the court  
32 deems necessary.

33 (d) There shall be a rebuttable presumption that a party is engaging  
34 in controlling and abusive litigation if:

35 1. the litigation initiated, advanced, or continued by the party  
36 allegedly engaging in controlling and abusive litigation involves the  
37 same or substantially similar issues between the same or substantially  
38 similar parties which have been litigated within the past five years in  
39 the same court or any other court of competent jurisdiction; or

40 2. the litigation initiated, advanced, or continued by the party  
41 allegedly engaging in controlling and abusive litigation involves the  
42 same or substantially similar issues between the same or substantially  
43 similar parties have been raised, pled or alleged in the past five years  
44 and were dismissed on the merits or with prejudice;

45 3. within the past ten years, a court in this state or another juris-  
46 isdiction has determined that the party allegedly engaging in controlling  
47 and abusive litigation has previously engaged in controlling and abusive  
48 litigation or similar conduct; or

49 4. within the past ten years, the party allegedly engaging in control-  
50 ling and abusive litigation has been found to have initiated, advanced,  
51 or continued litigation that was found to have been frivolous pursuant  
52 to section eighty-three hundred three-a of the civil practice law and  
53 rules or 22 NYCRR § 130-1.1 or a similar law or rule in this state or  
54 another jurisdiction.

1 (e) Upon finding that a party has engaged in controlling and abusive  
2 litigation, in addition to any other relief deemed appropriate, the  
3 court shall enter an order:

4 1. dismissing any matter or denying any relief requested pursuant to  
5 pending controlling and abusive litigation initiated, advanced, or  
6 continued by the party;

7 2. awarding reasonable attorneys' fees, expenses, and costs of  
8 responding to the controlling and abusive litigation, including those  
9 associated with a motion filed pursuant to this section, lost wages,  
10 transportation costs and childcare costs;

11 3. identifying the victim of the controlling and abusive litigation  
12 and providing that the victim shall not be required to respond to any  
13 pending or future litigation, unless directed to do so by the court;

14 4. prohibiting the party found to be engaging in controlling and  
15 abusive litigation from initiating, advancing, or continuing litigation  
16 involving the victim of the controlling and abusive litigation, except  
17 upon leave of court granted upon application submitted in accordance  
18 with the rules of court; and

19 5. imposing a twenty-five hundred dollar fine for each finding of  
20 controlling and abusive litigation. Leave shall not be granted pursuant  
21 to paragraph four of this subdivision until such fines have been paid in  
22 full.

23 (f) If the court finds by a preponderance of the evidence that the  
24 litigation does not constitute controlling and abusive litigation, the  
25 court shall enter written findings and the litigation shall proceed.

26 (g) Nothing in this section shall be deemed to restrict a party found  
27 to be engaging in controlling and abusive litigation from filing, initi-  
28 ating, advancing, or continuing litigation that does not violate the  
29 provisions of this section.

30 § 2. The domestic relations law is amended by adding a new section 256  
31 to read as follows:

32 § 256. Controlling and abusive litigation. 1. As used in this section  
33 "litigation" means any kind of legal action or proceeding including, but  
34 not limited to: filing a summons, complaint, demand, or petition; serv-  
35 ing a summons, complaint, demand, or petition, regardless of whether it  
36 has been filed; filing a motion, notice of court date, or order to  
37 appear; serving a motion, notice of court date, or order to appear,  
38 regardless of whether it has been filed or scheduled; filing a subpoena,  
39 subpoena duces tecum, request for interrogatories, request for  
40 production, notice of deposition, or other discovery request; or serving  
41 a subpoena, subpoena duces tecum, request for interrogatories, request  
42 for production, notice of deposition, or other discovery request.

43 2. Upon a motion filed pursuant to this section, the court shall  
44 determine whether a party is engaging in controlling and abusive liti-  
45 gation. The court shall find that a party is engaged in controlling and  
46 abusive litigation if said party:

47 (a) has committed an act or acts of domestic violence against the  
48 other party in the matter and that party is deemed a victim or victims  
49 of domestic violence as defined by subdivision one of section four  
50 hundred fifty-nine-a of the social services law or the provisions of a  
51 substantially similar statute under the laws of another state or the  
52 United States; and

53 (b) in bad faith and primarily for the purpose of delay; malicious  
54 injury; or harassing, intimidating, or maintaining contact with the  
55 other party, initiates, advances, or continues litigation against the  
56 party who is the victim or victims of domestic violence; and

1 (c) with regard to litigation initiated, advanced, or continued by the  
2 party allegedly engaging in controlling and abusive litigation, the  
3 court finds by a preponderance of the evidence that:

4 i. claims, allegations, and other legal contentions in the litigation  
5 are without any reasonable basis in law or equity and could not be  
6 supported by a good faith argument for an extension, modification, or  
7 reversal of existing law, an existing order, or the establishment of a  
8 new order; or

9 ii. allegations and other factual contentions in the litigation are  
10 made without evidentiary support; or

11 iii. one or more issues that are the basis of the litigation have  
12 previously been the subject of litigation filed in the same or another  
13 court in this state or any other court of competent jurisdiction and the  
14 actions have been litigated and disposed of unfavorably to the party  
15 alleged to be engaging in controlling and abusive litigation.

16 3. (a) A motion may be filed at any time to determine whether a party  
17 is engaging in controlling and abusive litigation by a party who is a  
18 victim of domestic violence as defined in subdivision one of section  
19 four hundred fifty-nine-a of the social services law, or on the court's  
20 own motion. If the court verifies that both parties are family or house-  
21 hold members as defined by subdivision two of section four hundred  
22 fifty-nine-a of the social services law and the party raising the claim  
23 of controlling and abusive litigation has been found to be a victim of  
24 domestic violence by the conduct of the other party, or the court is  
25 unable to verify that one element is not true, the court shall set a  
26 hearing to determine whether the litigation is controlling and abusive  
27 litigation. The motion may be filed orally while under oath, or in writ-  
28 ing, in accordance with the rules of court.

29 (b) At the time set for the hearing on the alleged controlling and  
30 abusive litigation, the court shall hear all relevant testimony and may  
31 require any affidavits, documentary evidence or other records the court  
32 deems necessary.

33 4. There shall be a rebuttable presumption that a party is engaging in  
34 controlling and abusive litigation if:

35 (a) the litigation initiated, advanced, or continued by the party  
36 allegedly engaging in controlling and abusive litigation involves the  
37 same or substantially similar issues between the same or substantially  
38 similar parties which have been litigated within the past five years in  
39 the same court or any other court of competent jurisdiction; or

40 (b) the litigation initiated, advanced, or continued by the party  
41 allegedly engaging in controlling and abusive litigation involves the  
42 same or substantially similar issues between the same or substantially  
43 similar parties have been raised, pled or alleged in the past five years  
44 and were dismissed on the merits or with prejudice;

45 (c) within the past ten years, a court in this state or another juris-  
46 isdiction has determined that the party allegedly engaging in controlling  
47 and abusive litigation has previously engaged in controlling and abusive  
48 litigation or similar conduct; or

49 (d) within the past ten years, the party allegedly engaging in  
50 controlling and abusive litigation has been found to have initiated,  
51 advanced, or continued litigation that was found to have been frivolous  
52 pursuant to section eighty-three hundred three-a of the civil practice  
53 law and rules or 22 NYCRR § 130-1.1 or a similar law or rule in this  
54 state or another jurisdiction.

1 5. Upon finding that a party has engaged in controlling and abusive  
2 litigation, in addition to any other relief deemed appropriate, the  
3 court shall enter an order:

4 (a) dismissing any matter or denying any relief requested pursuant to  
5 pending controlling and abusive litigation initiated, advanced, or  
6 continued by the party;

7 (b) awarding reasonable attorneys' fees, expenses, and costs of  
8 responding to the controlling and abusive litigation, including those  
9 associated with a motion filed pursuant to this section, lost wages,  
10 transportation costs and childcare costs;

11 (c) identifying the victim of the controlling and abusive litigation  
12 and providing that the victim shall not be required to respond to any  
13 pending or future litigation, unless directed to do so by the court;

14 (d) prohibiting the party found to be engaging in controlling and  
15 abusive litigation from initiating, advancing, or continuing litigation  
16 involving the victim of the controlling and abusive litigation, except  
17 upon leave of court granted upon application submitted in accordance  
18 with the rules of court; and

19 (e) imposing a twenty-five hundred dollar fine for each finding of  
20 controlling and abusive litigation. Leave shall not be granted pursuant  
21 to paragraph (d) of this subdivision until such fines have been paid in  
22 full.

23 6. If the court finds by a preponderance of the evidence that the  
24 litigation does not constitute controlling and abusive litigation, the  
25 court shall enter written findings and the litigation shall proceed.

26 7. Nothing in this section shall be deemed to restrict a party found  
27 to be engaging in controlling and abusive litigation from filing, initi-  
28 ating, advancing, or continuing litigation that does not violate the  
29 provisions of this section.

30 § 3. This act shall take effect on the ninetieth day after it shall  
31 have become a law. Effective immediately, the addition, amendment and/or  
32 repeal of any rule or regulation necessary for the implementation of  
33 this act on its effective date are authorized to be made and completed  
34 on or before such effective date.