

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 Assem-
bly, 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.