

20101606D

## HOUSE BILL NO. 628

Offered January 8, 2020

Prefiled January 6, 2020

A BILL to amend and reenact § 8.01-271.1 of the Code of Virginia, relating to sanctions; improper purpose; claims filed in retaliation for certain actions.

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Patron—Hurst

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Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That § 8.01-271.1 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-271.1. Signing of pleadings, motions, and other papers; oral motions; sanctions.**

Except as otherwise provided in §§ 16.1-260 and 63.2-1901, every pleading, written motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, and the attorney's address shall be stated on the first pleading filed by that attorney in the action. A party who is not represented by an attorney, including a person confined in a state or local correctional facility proceeding pro se, shall sign his pleading, motion, or other paper and state his address. A minor who is not represented by an attorney shall sign his pleading, motion, or other paper by his next friend. Either or both parents of such minor may sign on behalf of such minor as his next friend. However, a parent may not sign on behalf of a minor if such signature is otherwise prohibited by subdivision 6 of § 64.2-716.

The signature of an attorney or party constitutes a certificate by him that (i) he has read the pleading, motion, or other paper, (ii) to the best of his knowledge, information and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (iii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, written motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

An oral motion made by an attorney or party in any court of the Commonwealth constitutes a representation by him that (i) to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (ii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

If a pleading, motion, or other paper is signed or made in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed the paper or made the motion, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper or making of the motion, including a reasonable attorney's attorney fee.

For the purposes of this section, a pleading filed for an improper purpose includes any claim of defamation, intentional infliction of emotional distress, malicious prosecution, or abuse of process that is filed in retaliation for or in order to chill, discourage, or limit any legitimate action taken by a victim of (i) family abuse; (ii) an act of violence, force, or threat; (iii) stalking; or (iv) sexual assault to obtain any order of protection or criminal charges based on such family abuse, act of violence, force, or threat, stalking, or sexual assault. Any such pleadings found by a court of competent jurisdiction to lack either justification in existing law or a good faith argument for the extension, modification, or reversal of existing law shall be presumed to have been filed for an improper purpose.

INTRODUCED

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