

House Resolution 596

By: Representatives Day of the 163rd, Willard of the 49th, Ralston of the 7th, and Neal of the 1st

A RESOLUTION

1 Creating the House Study Committee on the Need for Improving Available Remedies for
2 Defending Against Frivolous and Malicious Litigation; and for other purposes.

3 WHEREAS, the law currently provides remedies for persons defending against frivolous or
4 malicious causes of action under Article 5 of Chapter 7 of Title 51 of the O.C.G.A., relating
5 to abusive litigation, and Code Section 9-15-14 of the O.C.G.A., relating to litigation costs
6 and attorney's fees assessed for frivolous action and defenses; and

7 WHEREAS, due to a variety of factors, it is becoming increasingly difficult for private
8 individuals to afford to defend themselves against abusive, frivolous, or malicious litigation
9 and the remedies available fall short of making an individual whole for the expense or
10 emotional trauma associated with defending against such an action; and

11 WHEREAS, further inquiry is warranted to consider the need for additional statutory
12 remedies including treble damages, damages for emotional distress, loss of consortium, lost
13 wages for court and other legal appearances, and other legal cures; and

14 WHEREAS, there is a possibly a need for additional sanctions and penalties against attorneys
15 who file such actions which may include civil sanctions, licensing penalties, and holding
16 such attorneys jointly liable for any costs or attorney's fees awarded to a party for
17 successfully defending against such frivolous or malicious litigation; and

18 WHEREAS, the failure to have adequate remedies available to persons who must defend
19 frivolous and malicious actions contributes to the rising cost of insurance, overcrowding of
20 court dockets, and delay in the resolution of legitimate matters before the courts and
21 necessarily increases the tremendous costs in providing quality judicial and court services
22 to the citizens of this state; and

1 WHEREAS, other states and the federal courts have a variety of remedies available to
2 persons who are wrongfully subjected to frivolous and malicious litigation and these options
3 should be closely scrutinized for possible adoption in this state; and

4 WHEREAS, Georgia needs to review its remedies available to those who suffer from
5 frivolous and malicious litigation in order to lessen the number of such cases filed and to
6 determine if these remedies and the administration of justice can thereby be improved.

7 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES that
8 there is created the House Study Committee on the Need for Improving Available Remedies
9 for Defending Against Frivolous and Malicious Litigation to be composed of 11 members
10 appointed by the Speaker of the House which shall consist of five Representatives, four
11 attorneys, and two superior court judges. The Speaker of the House shall designate one of
12 the Representative members of the committee to serve as chairperson of the committee. The
13 chairperson shall call all meetings of the committee.

14 BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions,
15 needs, issues, and problems mentioned above or related thereto and recommend any actions
16 or legislation that the committee deems necessary or appropriate. The committee may
17 conduct such meetings at such places and at such times as it may deem necessary or
18 convenient to enable it to exercise fully and effectively its powers, perform its duties, and
19 accomplish the objectives and purposes of this resolution. The Representative members of
20 the committee shall receive the allowances authorized for legislative members of interim
21 legislative committees but shall receive the same for not more than five days unless
22 additional days are authorized. The other members of the committee shall serve without
23 compensation but shall be reimbursed for actual expenses incurred while undertaking the
24 business of the committee. The funds necessary to carry out the provisions of this resolution
25 shall come from the funds appropriated to the House of Representatives. In the event that
26 the committee makes a report of its findings and recommendations with suggestions for
27 proposed legislation, if any, such report shall be made on or before December 31, 2007. The
28 committee shall stand abolished on January 31, 2008.