



H.R. 758—Lawsuit Abuse Reduction Act (Smith, R-TX)

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FLOOR SCHEDULE:

SCHEDULED FOR CONSIDERATION ON SEPTEMBER 17, 2015, SUBJECT TO A CLOSED [RULE](#)

TOPLINE SUMMARY:

[H.R. 758](#) would attempt to curb frivolous lawsuits by requiring courts to apply sanctions to law firms, attorneys, and parties that file frivolous suits. Presently, courts are allowed, but not required, to apply sanctions. This legislation would require sanctions applied in the event that a frivolous suit is filed be paid as compensation to injured parties. Further, H.R. 758 would allow courts to impose additional sanctions, including suit dismissal, striking pleadings, or other nonmonetary measures as the court sees fit.

COST:

The Congressional Budget Office (CBO) [estimates](#) that that “implementing the bill would result in no significant effect on the federal budget.”

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Rule 11 of the [Federal Rules of Civil Procedure](#) governs the imposition of sanctions by Federal Courts. Rule 11 requires that representations made before the court must, to the best of the filer’s knowledge, contain only claims that are factual, supported by evidence, and are warranted by existing law or a nonfrivolous argument for modifying, extending, or reversing existing law. Further, the rule stipulates that parties must certify that representations made to the court are not intended to harass other parties or cause unnecessary delays or increased costs in litigation. Whether a particular argument is considered nonfrivolous is at the discretion of the presiding judge.

Presently, Rule 11 allows courts to impose sanctions on frivolous lawsuits, but does not require them to do so. Further, it gives parties 21 days to correct or withdraw any challenged representations, creating a potential loophole in which unscrupulous litigants can file frivolous suits to harass another party or induce settlement, only to amend or withdraw the complaint within the correction period.

H.R. 758 would require courts to impose sanctions against litigants those that file frivolous lawsuits, and would apply to cases brought by individuals as well as businesses. Further, this bill would provide that none of the changes made to Rule 11 can be construed to “bar or impede the assertion or development of new claims, defenses, or remedies under Federal, State, or local laws, including civil rights laws, or under the Constitution.”

A [hearing](#) was held on this legislation on March 17, 2015. A committee report can be found [here](#). Similar legislation passed in the House of Representatives in the 113th Congress as H.R. 2655, by a [vote of 228-195](#). The legislative bulletin for H.R. 2655 can be found [here](#).

OUTSIDE GROUPS:

[U.S. Chamber of Commerce](#)

COMMITTEE ACTION:

H.R. 758 was introduced on February 5, 2015 and was referred to the House Committee on the Judiciary, where it was [reported](#) by the yeas and nays on May 14, 2015.

ADMINISTRATION POSITION:

According to the White House [Statement of Administration Policy](#), “the Administration strongly opposes H.R. 758.”

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 9; Article III, Section 1, Clause 1; and Article III, Section 2, Clause 2 of the Constitution, which grant Congress authority over federal courts.

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