



H.R. 720 – Lawsuit Abuse Reduction Act (LARA), (Rep. Smith, R-TX)

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FLOOR SCHEDULE:

Expected to be considered on March 10, 2017 under a [structured rule](#).

TOPLINE SUMMARY:

[H.R. 720](#) 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 stemming from frivolous suits to be paid as compensation to injured parties. Further, H.R. 720 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 implementing the bill would have no effect on the federal budget.”

CONSERVATIVE 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 non-frivolous 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 non-frivolous 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. 720 would require courts to impose sanctions against those litigants 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.”

Identical text to this legislation was passed on September 17, 2015, by a [vote](#) of 241-185. A previous legislative bulletin can be found [here](#). The committee report can be found [here](#).

AMENDMENTS:

1. [Rep. Soto](#) (D-FL) – This amendment would reinstate section (c)(2) of rule 11 of the Federal Rules of Civil Procedure, the safe harbor provision, to allow parties to avoid penalties by correcting or withdrawing claims within 14 days from the time an alleged violation of rule 11(b) becomes known, up until the end of discovery, effectively eliminating the substantial reforms in the underlying legislation.
2. [Rep. Jackson Lee](#) (D-TX) – This amendment would strike the provision that mandates that attorney’s fees and costs be reasonable.
3. [Rep. Conyers](#) (D-MI) – This amendment would exempt civil actions alleging violations of constitutional or civil rights from the requirements of the legislation.
4. [Rep. Jeffries](#) (D-NY) – This amendment would exempt actions pertaining to whistleblowers from the requirements of the legislation.

COMMITTEE ACTION:

H.R. 720 was introduced on January 30, 2017 and was referred to the House Committee on the Judiciary.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

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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