

By: King of Hemphill

H.B. No. 2412

Substitute the following for H.B. No. 2412:

By: Johnson of Dallas

C.S.H.B. No. 2412

A BILL TO BE ENTITLED

AN ACT

relating to civil actions by a civilly committed individual.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 14A to read as follows:

CHAPTER 14A. LITIGATION BY CIVILLY COMMITTED INDIVIDUAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 14A.001. DEFINITIONS. In this chapter:

(1) "Civilly committed individual" means a sexually violent predator as defined by Section 841.003, Health and Safety Code, who has been committed to a facility operated by or under contract with the Texas Civil Commitment Office.

(2) "Claim" means a cause of action governed by this chapter.

(3) "Office" means the Texas Civil Commitment Office.

(4) "Trust account" means a civilly committed individual's trust account administered by the office or by a facility under contract with the office.

(5) "Unsworn declaration" means a document executed in accordance with Chapter 132.

Sec. 14A.002. SCOPE OF CHAPTER. (a) This chapter applies only to an action, including an appeal or original proceeding, brought by a civilly committed individual in a district, county, or justice court or an appellate court, including the supreme court or

1 the court of criminal appeals, in which an affidavit or unsworn
2 declaration of inability to pay costs is filed by the civilly
3 committed individual.

4 (b) This chapter does not apply to an action brought under
5 the Family Code.

6 SUBCHAPTER B. DISMISSAL OF AND REQUIREMENTS FOR CLAIM

7 Sec. 14A.051. DISMISSAL OF FALSE, FRIVOLOUS, OR MALICIOUS
8 CLAIM. (a) A court may dismiss a claim, either before or after
9 service of process, if the court finds that:

10 (1) the allegation of poverty in the affidavit or
11 unsworn declaration is false;

12 (2) the claim is frivolous or malicious; or

13 (3) the civilly committed individual filed an
14 affidavit or unsworn declaration required by this chapter that the
15 individual knew was false.

16 (b) In determining whether a claim is frivolous or
17 malicious, the court may consider whether:

18 (1) the claim's realistic chance of ultimate success
19 is slight;

20 (2) the claim has no arguable basis in law or in fact;

21 (3) it is clear that the civilly committed individual
22 cannot prove the facts in support of the claim; or

23 (4) the claim is substantially similar to a previous
24 claim filed by the civilly committed individual because the claim
25 arises from the same operative facts.

26 (c) In determining whether Subsection (a) applies, the
27 court may hold a hearing. The hearing may be held before or after

1 service of process, and it may be held on motion of the court, a
2 party, or the court clerk.

3 (d) On the filing of a motion under Subsection (c), the
4 court shall suspend discovery relating to the claim pending the
5 hearing.

6 (e) A court that dismisses a claim brought by a civilly
7 committed individual housed in a facility operated by or under
8 contract with the office may notify the office of the dismissal and,
9 on the court's own motion or the motion of any party or the court
10 clerk, may advise the office that a mental health evaluation of the
11 individual may be appropriate.

12 Sec. 14A.052. AFFIDAVIT RELATING TO PREVIOUS FILINGS. (a)
13 A civilly committed individual who files an affidavit or unsworn
14 declaration of inability to pay costs shall file a separate
15 affidavit or declaration:

16 (1) identifying the court that ordered the
17 individual's civil commitment under Chapter 841, Health and Safety
18 Code;

19 (2) indicating whether any cause of action or
20 allegation contained in the petition has previously been filed in
21 any other court, and if so, stating the cause of action or
22 allegation previously filed and complying with Subdivision (6) and
23 Subsection (b);

24 (3) identifying each action, other than an action
25 under the Family Code, previously brought by the individual in
26 which the individual was not represented by an attorney, without
27 regard to whether the individual was civilly committed at the time

1 the action was brought;

2 (4) certifying that all grievance processes
3 applicable to the matter that is the basis of the claim, if any,
4 have been exhausted;

5 (5) certifying that no court has found the individual
6 to be a vexatious litigant under Chapter 11; and

7 (6) describing each action that was previously brought
8 by:

9 (A) stating the operative facts for which relief
10 was sought;

11 (B) listing the case name, the cause number, and
12 the court in which the action was brought;

13 (C) identifying each party named in the action;
14 and

15 (D) stating the result of the action, including
16 whether the action or a claim that was a basis for the action was
17 dismissed as frivolous or malicious under Section 13.001, 14.003,
18 or 14A.051 or otherwise.

19 (b) If the affidavit or unsworn declaration filed under this
20 section states that a previous action or claim was dismissed as
21 frivolous or malicious, the affidavit or unsworn declaration must
22 state the date of the final order affirming the dismissal.

23 (c) The affidavit or unsworn declaration must be
24 accompanied by the certified copy of the trust account statement
25 required by Section 14A.054(f).

26 Sec. 14A.053. GRIEVANCE SYSTEM DECISION; EXHAUSTION OF
27 ADMINISTRATIVE REMEDIES. (a) A civilly committed individual who

1 files a claim that is subject to a grievance system established by
2 the office or a facility under contract with the office shall file
3 with the court:

4 (1) an affidavit or unsworn declaration stating the
5 date that the grievance was filed and the date the written decision
6 was received by the individual; and

7 (2) a copy of the written decision from the grievance
8 system.

9 (b) A court shall dismiss a claim if the civilly committed
10 individual fails to file the claim before the 31st day after the
11 date the individual receives the written decision from the
12 grievance system.

13 (c) If a claim is filed before the grievance system
14 procedure is complete, the court shall stay the proceeding with
15 respect to the claim for a period not to exceed 180 days to permit
16 completion of the grievance system procedure.

17 Sec. 14A.054. COURT FEES, COURT COSTS, OTHER COSTS. (a) A
18 court may order a civilly committed individual who has filed a claim
19 to pay court fees, court costs, and other costs in accordance with
20 this section and Section 14A.055. The court clerk shall mail a copy
21 of the court's order and a certified bill of costs to the office or
22 facility under contract with the office, as appropriate.

23 (b) On the court's order, the civilly committed individual
24 shall pay an amount equal to the lesser of:

25 (1) 20 percent of the preceding six months' deposits to
26 the individual's trust account; or

27 (2) the total amount of court fees, court costs, and

1 other costs.

2 (c) In each month following the month in which payment is
3 made under Subsection (b), the civilly committed individual shall
4 pay an amount equal to the lesser of:

5 (1) 10 percent of that month's deposits to the trust
6 account; or

7 (2) the total amount of court fees, court costs, and
8 other costs that remains unpaid.

9 (d) Payments under Subsection (c) shall continue until the
10 total amount of court fees, court costs, and other costs are paid or
11 until the civilly committed individual is released from
12 confinement.

13 (e) On receipt of a copy of an order issued under Subsection
14 (a), the office or facility under contract with the office shall
15 withdraw money from the trust account in accordance with
16 Subsections (b), (c), and (d). The office or facility shall hold the
17 money in a separate account and shall forward the money to the court
18 clerk on the earlier of the following dates:

19 (1) the date the total amount to be forwarded equals
20 the total amount of court fees, court costs, and other costs that
21 remains unpaid; or

22 (2) the date the civilly committed individual is
23 released.

24 (f) The civilly committed individual shall file a certified
25 copy of the individual's trust account statement with the court.
26 The statement must reflect the balance of the account at the time
27 the claim is filed and activity in the account during the six months

1 preceding the date on which the claim is filed. The court may
2 request the office to furnish the information required under this
3 subsection.

4 (g) A civilly committed individual may authorize payment in
5 addition to that required by this section.

6 (h) The court may dismiss a claim if the civilly committed
7 individual fails to pay fees and costs assessed under this section.

8 (i) A civilly committed individual may not avoid the fees
9 and costs assessed under this section by nonsuiting a party or by
10 voluntarily dismissing the action.

11 Sec. 14A.055. OTHER COSTS. (a) An order under Section
12 14A.054(a) must include the costs described by Subsection (b) if
13 the court finds that:

14 (1) the civilly committed individual has previously
15 filed an action to which this chapter or Chapter 14 applies; and

16 (2) a final order has been issued that affirms that the
17 action was dismissed as frivolous or malicious under Section
18 13.001, 14.003, or 14A.051 or otherwise.

19 (b) If Subsection (a) applies, costs of court must include
20 expenses incurred by the court or by the office or facility under
21 contract with the office, in connection with the claim and not
22 otherwise charged to the civilly committed individual under Section
23 14A.054, including:

24 (1) expenses of service of process;

25 (2) postage; and

26 (3) transportation, housing, or medical care incurred
27 in connection with the appearance of the individual in the court for

1 any proceeding.

2 Sec. 14A.056. HEARING. (a) The court may hold a hearing
3 under this chapter at a facility operated by or under contract with
4 the office or may conduct the hearing with video communications
5 technology that permits the court to see and hear the civilly
6 committed individual and that permits the individual to see and
7 hear the court and any other witness.

8 (b) A hearing conducted under this section by video
9 communications technology shall be recorded on videotape or by
10 other electronic means. The recording is sufficient to serve as a
11 permanent record of the hearing.

12 Sec. 14A.057. SUBMISSION OF EVIDENCE. (a) The court may
13 request a person with an admissible document or admissible
14 testimony relevant to the subject matter of the hearing to submit a
15 copy of the document or written statement stating the substance of
16 the testimony.

17 (b) A written statement submitted under this section must be
18 made under oath or made as an unsworn declaration under Section
19 132.001.

20 (c) A copy of a document submitted under this section must
21 be accompanied by a certification executed under oath by an
22 appropriate custodian of the record stating that the copy is
23 correct and any other matter relating to the admissibility of the
24 document that the court requires.

25 (d) A person submitting a written statement or document
26 under this section is not required to appear at the hearing.

27 (e) The court shall require that the civilly committed

1 individual be provided with a copy of each written statement or
2 document not later than the 14th day before the date on which the
3 hearing is to begin.

4 Sec. 14A.058. DISMISSAL OF CLAIM. (a) The court may enter
5 an order dismissing the entire claim or a portion of the claim under
6 this chapter.

7 (b) If a portion of the claim is dismissed, the court shall
8 designate the issues and defendants on which the claim may proceed,
9 subject to Sections 14A.054 and 14A.055.

10 (c) An order under this section is not subject to
11 interlocutory appeal by the civilly committed individual.

12 Sec. 14A.059. EFFECT ON OTHER CLAIMS. (a) Except as
13 provided by Subsection (b), on receipt of an order assessing fees
14 and costs under Section 14A.054 that indicates that the court made
15 the finding described by Section 14A.055(a), a court clerk may not
16 accept for filing another claim by the civilly committed individual
17 until the fees and costs assessed under Section 14A.054 are paid.

18 (b) A court may allow a civilly committed individual who has
19 not paid the fees and costs assessed against the individual to file
20 a claim for injunctive relief seeking to enjoin an act or failure to
21 act that creates a substantial threat of irreparable injury or
22 serious physical harm to the individual.

23 Sec. 14A.060. QUESTIONNAIRE. To implement this chapter, a
24 court may develop, for use in that court, a questionnaire to be
25 filed by the civilly committed individual.

26 Sec. 14A.061. REVIEW AND RECOMMENDATION BY MAGISTRATES.

27 (a) The supreme court shall, by rule, adopt a system under which a

1 court may refer a suit governed by this chapter to a magistrate for
2 review and recommendation.

3 (b) The system adopted under Subsection (a) may be funded
4 from money appropriated to the supreme court or from money received
5 by the supreme court through interagency contract or contracts.

6 (c) For the purposes of Section 14A.062, the adoption of a
7 system by rule under Subsection (a) does not constitute a
8 modification or repeal of a provision of this chapter.

9 Sec. 14A.062. CONFLICT WITH TEXAS RULES OF CIVIL PROCEDURE.
10 Notwithstanding Section 22.004, Government Code, this chapter may
11 not be modified or repealed by a rule adopted by the supreme court.

12 SECTION 2. Chapter 14A, Civil Practice and Remedies Code,
13 as added by this Act, applies only to an action filed on or after the
14 effective date of this Act.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2023.