

By: Harris

S.B. No. 516

A BILL TO BE ENTITLED

AN ACT

relating to the filing of an affidavit stating that a plaintiff is not a vexatious litigant.

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

SECTION 1. Subchapter B, Chapter 11, Civil Practice and Remedies Code, is amended by adding Section 11.050 to read as follows:

Sec. 11.050. AFFIDAVIT REGARDING VEXATIOUS LITIGANT STATUS. (a) In a litigation in this state, the plaintiff must, on commencement of the litigation, file with the court a verified affidavit stating that:

(1) the plaintiff has not, in the seven-year period immediately before the date the plaintiff commences the litigation, commenced, prosecuted, or maintained five or more litigations other than in a small claims court that have been:

(A) finally determined adversely to the plaintiff;

(B) permitted to remain pending at least two years without having been brought to trial or hearing; or

(C) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure;

(2) after litigation has been finally determined against the plaintiff, the plaintiff has not repeatedly relitigated

1 or attempted to relitigate either:

2 (A) the validity of the determination against the
3 same defendant as to whom the litigation was finally determined; or

4 (B) the cause of action, claim, controversy, or
5 any of the issues of fact or law determined or concluded by the
6 final determination against the same defendant as to whom the
7 litigation was finally determined; and

8 (3) the plaintiff has not previously been declared to
9 be a vexatious litigant by a state or federal court in an action or
10 proceeding based on the same or substantially similar facts.

11 (b) A court clerk may not file a litigation by a plaintiff
12 who does not provide a verified affidavit as required by Subsection
13 (a) unless the plaintiff has obtained an order from a local
14 administrative judge permitting the filing.

15 (c) A local administrative judge may grant permission to a
16 person who does not provide a verified affidavit as required by
17 Subsection (a) to file a litigation only if it appears to the judge
18 that the litigation:

19 (1) has merit; and

20 (2) has not been filed for the purposes of harassment
21 or delay.

22 (d) A local administrative judge who grants a plaintiff
23 permission to file a litigation under Subsection (c) may condition
24 permission on the plaintiff's furnishing security for the benefit
25 of the defendant.

26 SECTION 2. The change in law made by this Act applies only
27 to a litigation commenced on or after the effective date of this

1 Act. A litigation commenced before the effective date of this Act
2 is governed by the law as it existed immediately before the
3 effective date of this Act, and that law is continued in effect for
4 that purpose.

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2009.