

BILL ANALYSIS

C.S.H.B. 720
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Court clerks provide the Office of Court Administration of the Texas Judicial System with copies of orders declaring a person to be a vexatious litigant and prohibiting that person from filing any new litigation in a state court. The office maintains a list of vexatious litigants subject to prefiling orders and posts the list on its website. The number of litigants has grown quite substantial. There are several issues and concerns relating to the designation of a person as a vexatious litigant.

A question has arisen as to whether the office should place the name of a vexatious litigant on the list if the case in which the person is found to be a vexatious litigant is on appeal. The office has adopted the practice of listing the litigant with a notation that the case is on appeal. Appellate court clerks have also asked for clarification of their duties regarding a vexatious litigant's filing of an appeal or other claim. Appellate courts seek clarification of any right of appeal for a vexatious litigant. The office of court administration seeks to efficiently update the list for posting on a website by requiring court clerks to timely provide prefiling orders to the office. The intent of C.S.H.B. 720 is to clarify these issues.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 720 amends the Civil Practice and Remedies Code to authorize a litigant to appeal from a prefiling order prohibiting a person from filing, in propria persona, new litigation and designating the person a vexatious litigant. The bill specifies that a decision of a local administrative judge denying a vexatious litigant permission to file a litigation, or conditioning permission to file a litigation on the furnishing of security, does not constitute grounds for appeal. The bill creates an exception to that specification for a litigant who files a writ of mandamus with the court of appeals not later than the 30th day after the date of the decision and specifies that the denial of such a writ of mandamus by the court of appeals does not constitute grounds for appeal to the Supreme Court of Texas or the Texas Court of Criminal Appeals.

C.S.H.B. 720 adds an original proceeding, appeal, or other claim to the claims a court clerk is prohibited from filing if presented by a vexatious litigant who is subject to a prefiling order prohibiting the litigant from filing a new litigation in a court in Texas unless the litigant obtains an order that permits the filing from the local administrative judge and creates an exception to that prohibition for a clerk of a court of appeals who files an appeal from a prefiling order designating a person a vexatious litigant or a timely filed writ of mandamus. The bill, in the provision of law requiring a court clerk to provide the Office of Court Administration of the Texas Judicial System a copy of any prefiling order prohibiting a vexatious litigant from filing a new litigation in a court in Texas, sets the deadline by which the clerk is required to provide the copy at not later than the 30th day after the date the prefiling order is signed. The bill requires

the office to post on the agency's Internet website, rather than requiring it to maintain, a list of vexatious litigants subject to prefiling orders prohibiting the litigant from filing a new litigation in a court in Texas and requires the list, on request of a person designated a vexatious litigant, to indicate whether the person designated a vexatious litigant has filed an appeal of the litigant's designation as a vexatious litigant. The bill removes a provision of law requiring the office to annually send the list of vexatious litigants to the court clerks of the state.

C.S.H.B. 720 provides that the posting, before the effective date of the bill, of the name of a person designated a vexatious litigant on a list of vexatious litigants on the Internet website of the office is not grounds for a cause of action; a defense against a finding that a plaintiff is a vexatious litigant; or grounds for relief or appeal from a stay, order, or dismissal or any other action taken by a court or a court clerk under provisions of law relating to a vexatious litigant. The bill expands the definition of "local administrative judge" to include a local administrative statutory probate court judge, for purposes relating to a vexatious litigant.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 720 contains a provision not in the original to authorize a litigant to appeal from a prefiling order designating the person a vexatious litigant. The substitute contains a provision not in the original specifying that a decision of a local administrative judge denying a vexatious litigant permission to file a litigation, or conditioning permission to file a litigation on the furnishing of security, does not constitute grounds for appeal and creating an exception to that specification for certain litigants authorized to apply for a writ of mandamus within a certain period. The substitute contains a provision not in the original specifying that the denial of such a writ of mandamus by the court of appeals does not constitute grounds for appeal to the Supreme Court of Texas or the Texas Court of Criminal Appeals. The substitute differs from the original by adding an original proceeding or other claim, in addition to an appeal, to the claims a court clerk is prohibited from filing if presented by certain vexatious litigants, whereas the original adds an appeal to that prohibited filing. The substitute contains a provision not in the original making a conforming change authorizing a court clerk to file a timely filed writ of mandamus. The substitute contains a provision not in the original setting the deadline by which a court clerk is required to provide to the office a copy of a prefiling order designating a person a vexatious litigant. The substitute differs from the original by specifying that the requirement that the Office of Court Administration of the Texas Judicial System's list of vexatious litigants indicate whether a person designated a vexatious litigant has filed an appeal of that designation applies on request of a person so designated. The substitute contains a provision not in the original to expand the definition of "local administrative judge" to include a local administrative statutory probate court judge. The substitute differs from the original in a nonsubstantive way by conforming to certain bill drafting conventions.