

BILL ANALYSIS

Senate Research Center
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H.B. 2935
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2935 clarifies the established right for one to take an interlocutory appeal of the denial or grant of a Motion to Dismiss filed under Chapter 27 (Actions Involving the Exercise of Certain Constitutional Rights) of the Civil Practice and Remedies Code.

The proposal and the original statute passed last session provided for three situations where a party to the cause of action could appeal the interlocutory order disposing of the Motion to Dismiss. First, if the trial court failed to act within the time period in the statute; second, if the trial court granted the motion to dismiss; and third, if the trial court denied the motion to dismiss. In the process of these “motions” going through the court system, the Second Court of Appeals ruled that in the case of a denial of a motion to dismiss signed by a judge, the statute did not allow an interlocutory appeal. Both the Thirteenth and the Fourteenth Courts of Appeals have ruled that the existing statute does provide for the right to an interlocutory appeal under these circumstances. The purpose of this bill is to clarify the legislative intent to provide for an interlocutory appeal in all three of the circumstances outlined in Chapter 27 and to provide for a stay of the underlying proceedings pending the outcome of the appeal.

H.B. 2935 amends current law relating to the interlocutory appeal of a denial of a motion to dismiss in an action involving the exercise of certain constitutional rights.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 51.014(a) and (b), Civil Practice and Remedies Code, as follows:

(a) Authorizes a person to appeal from an interlocutory order of a district court, county court at law, or county court that, among other actions, denies a motion to dismiss filed under Section 27.003 (Motion to Dismiss).

(b) Provides that an interlocutory appeal under Subsection (a)(3) (relating to authorizing a person to appeal from an interlocutory order of a district court, county court at law, or county court that certifies or refuses to certify a class in a suit brought under Rule 42 of the Texas Rules of Civil Procedure), (5) (relating to authorizing a person to appeal from an interlocutory order of a district court, county court at law, or county court that denies a motion for summary judgment that is based on an assertion of immunity for an individual who is an officer or employee of the state or a political subdivision of the state), (8) (relating to authorizing a person to appeal from an interlocutory order of a district court, county court at law, or county court that grants or denies the special appearance of a defendant under Rule 120a, Texas Rules of Civil Procedure, except under certain conditions), or (12) (relating to authorizing a person to appeal from an interlocutory order of a district court, county court at law, or county court that denies a motion to dismiss filed under Section 27.003) stays all other proceedings in the trial court pending resolution of that appeal.

SECTION 2. Repealer: Section 27.008(c) (relating to requiring that an appeal or other writ under this section be filed on or before the 60th day after the date the trial court's order is signed or the time prescribed by Section 27.005 expires, as applicable), Civil Practice and Remedies Code.

SECTION 3. Effective date: upon passage or September 1, 2013.