

By: Parker

H.B. No. 2442

A BILL TO BE ENTITLED

AN ACT

relating to a pre-suit deposition in inmate litigation.

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

SECTION 1. Section 14.002(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) Except as provided by Section 14.0025, this ~~[This]~~ chapter applies only to an action, including an appeal or original proceeding, brought by an inmate in a district, county, justice of the peace, or small claims court or an appellate court, including the supreme court or the court of criminal appeals, in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate.

SECTION 2. Chapter 14, Civil Practice and Remedies Code, is amended by adding Section 14.0025 to read as follows:

Sec. 14.0025. PRE-SUIT DEPOSITION. (a) This section applies to an inmate seeking to file a petition for a pre-suit deposition in a court listed in Section 14.002(a). This section does not apply to an inmate represented by an attorney.

(b) A court may not grant a petition for a pre-suit deposition in anticipation of an action described by Section 14.002(a).

(c) At the time an inmate files a petition for a pre-suit deposition, the inmate shall submit to the court:

(1) an affidavit certifying that the inmate is not

1 indigent;

2 (2) a certified copy of the inmate's trust fund account  
3 statement;

4 (3) proof that the inmate has exhausted all  
5 administrative remedies in the manner provided by Section 14.005(a)  
6 with respect to all anticipated claims; and

7 (4) a bond deposited with the clerk of the court in the  
8 amount of the filing fees applicable to the anticipated action and  
9 refundable on notice of abandonment of the anticipated action.

10 (d) A court shall deny, after reasonable notice to the  
11 parties, a petition for a pre-suit deposition with respect to which  
12 an inmate fails to comply with Subsection (c).

13 (e) Not later than the date an inmate files a petition for a  
14 pre-suit deposition, the inmate shall serve a copy of the petition  
15 on the attorney general.

16 (f) To the extent that this section conflicts with the Texas  
17 Rules of Civil Procedure, this section controls.

18 SECTION 3. The change in law made by this Act applies only  
19 to a petition for a deposition filed on or after the effective date  
20 of this Act. A petition filed before the effective date of this Act  
21 is governed by the law in effect on the date the petition was filed,  
22 and that law is continued in effect for that purpose.

23 SECTION 4. This Act takes effect September 1, 2013.