

By: West

S.B. No. 1630

A BILL TO BE ENTITLED

AN ACT

relating to the protection of defendants against vexatious litigants.

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

SECTION 1. Subchapter A, Chapter 11, Civil Practice and Remedies Code, is amended by adding Section 11.002 to read as follows:

Sec. 11.002. APPLICABILITY. (a) This chapter does not apply to: (1) an attorney licensed to practice law in this state unless the attorney proceeds pro se; or (2) a plaintiff who is represented by an attorney licensed to practice law in this state.

(b) This chapter does not apply to a municipal court.

SECTION 2. The heading to Subchapter B, Chapter 11, Civil Practice and Remedies Code, is amended to read as follows:

SUBCHAPTER B. VEXATIOUS LITIGANT DETERMINATION [~~LITIGANTS~~]

SECTION 3. Section 11.051, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 11.051. MOTION FOR ORDER DETERMINING PLAINTIFF A VEXATIOUS LITIGANT AND REQUESTING SECURITY. (a) In a litigation in this state, the defendant may, on or before the 90th day after the date the defendant files the original answer or makes a special appearance, move the court for an order:

(1) determining that the plaintiff is a vexatious litigant; and

1 (2) requiring the plaintiff to furnish security.

2 (b) A court may, on its own motion, find a party a vexatious  
3 litigant during the pendency of the litigation.

4 SECTION 4. Section 11.052, Civil Practice and Remedies  
5 Code, is amended to read as follows:

6 Sec. 11.052. STAY OF PROCEEDINGS ON FILING OF MOTION. (a)  
7 On the filing of a motion or the court's own motion under Section  
8 11.051, the litigation is stayed and the moving defendant is not  
9 required to plead:

10 (1) if the motion is denied or the court fails to find  
11 the plaintiff is a vexatious litigant, before the 10th day after the  
12 date it is denied; or

13 (2) if the motion is granted or the court finds the  
14 plaintiff is a vexatious litigant and orders the plaintiff to  
15 furnish security, before the 10th day after the date the moving  
16 defendant or the court receives written notice that the plaintiff  
17 has furnished the required security.

18 (b) On the filing of a motion by the defendant or the court's  
19 own motion under Section 11.051 on or after the date the trial  
20 starts, the litigation is stayed for a period the court determines.

21 SECTION 5. Section 11.053, Civil Practice and Remedies  
22 Code, is amended by amending Subsection (a) and adding Subsection  
23 (c) to read as follows:

24 (a) On receipt of a motion or the court's own motion under  
25 Section 11.051, the court shall, after notice to all parties,  
26 conduct a hearing to determine whether the plaintiff is a vexatious  
27 litigant [~~to grant the motion~~].

1        (c) A plaintiff found to be a vexatious litigant under this  
2 subchapter may appeal the court's order.

3        SECTION 6. The heading to Section 11.055, Civil Practice  
4 and Remedies Code, is amended to read as follows:

5        Sec. 11.055. EFFECTS OF DETERMINATION OF VEXATIOUS  
6 LITIGANT; SECURITY.

7        SECTION 7. Sections 11.055(a) and (b), Civil Practice and  
8 Remedies Code, are amended to read as follows:

9        (a) If [~~A court shall order the plaintiff to furnish~~  
10 ~~security for the benefit of the moving defendant if the court,~~]  
11 after hearing the evidence on the motion, the court determines that  
12 the plaintiff is a vexatious litigant, the court may allow the  
13 litigation to proceed only if the court finds that the litigation:

14                (1) has merit; and

15                (2) has not been filed for the purpose of harassment or  
16 delay.

17        (b) If the court allows the litigation to proceed, the court  
18 shall order the plaintiff to furnish security for the benefit of the  
19 defendant and [~~The court~~] in its discretion shall determine the  
20 date by which the security must be furnished.

21        SECTION 8. Subchapter C, Chapter 11, Civil Practice and  
22 Remedies Code, is amended by adding Section 11.1015 to read as  
23 follows:

24        Sec. 11.1015. APPLICABILITY OF A VEXATIOUS LITIGANT  
25 DETERMINATION. (a) An order under Subchapter B that is issued by a  
26 justice or constitutional county court applies only to the justice  
27 or constitutional county court issuing the order.

1       (b) An order under Subchapter B issued by a district or  
2 statutory county court applies to every court in this state.

3       SECTION 9. Section 11.102, Civil Practice and Remedies  
4 Code, is amended to read as follows:

5       Sec. 11.102. PERMISSION BY LOCAL ADMINISTRATIVE JUDGE. (a)  
6 A vexatious litigant is prohibited from filing, in propria persona,  
7 new litigation in a court of this state without seeking the  
8 permission of:

9           (1) the local administrative judge of the type of  
10 court in which the vexatious litigant intends to file, except as  
11 provided by Subdivision (2); or

12           (2) the local administrative district judge of the  
13 county in which the vexatious litigant intends to file if the  
14 litigant intends to file in a justice or constitutional county  
15 court.

16       (b) A vexatious litigant who files a request seeking  
17 permission to file suit shall provide a copy of the request to all  
18 defendants named in the proposed litigation.

19       (c) The judge may make a determination on the request with  
20 or without a hearing. If the judge determines that a hearing is  
21 necessary, the judge may require that the vexatious litigant filing  
22 a request under Subsection (b) provide notice of the hearing to all  
23 defendants named in the proposed litigation.

24       (d) The [A local administrative] judge may grant permission  
25 to a person found to be a vexatious litigant under Subchapter B  
26 [Section 11.101] to file a litigation only if it appears to the  
27 judge that the litigation:

1           (1) has merit; and  
2           (2) has not been filed for the purposes of harassment  
3 or delay.

4           (e) [~~(b)~~] The [~~local administrative~~] judge may condition  
5 permission on the furnishing of security for the benefit of the  
6 defendant [~~as provided in Subchapter B~~].

7           (f) [~~(c)~~] A decision of a [~~local administrative~~] judge  
8 denying a litigant permission to file a litigation under Subsection  
9 (d) [~~(a)~~], or conditioning permission to file a litigation on the  
10 furnishing of security under Subsection (e) [~~(b)~~], is not grounds  
11 for appeal, except that the litigant may apply for a writ of  
12 mandamus with the court of appeals not later than the 30th day after  
13 the date of the decision. The denial of a writ of mandamus by the  
14 court of appeals is not grounds for appeal to the supreme court or  
15 court of criminal appeals.

16           SECTION 10. The heading to Section 11.103, Civil Practice  
17 and Remedies Code, is amended to read as follows:

18           Sec. 11.103. DUTIES OF CLERK REGARDING ORDERS ISSUED BY A  
19 DISTRICT OR STATUTORY COUNTY COURT [~~, MISTAKEN FILING~~].

20           SECTION 11. Sections 11.103(a), (c), and (d), Civil  
21 Practice and Remedies Code, are amended to read as follows:

22           (a) Except as provided by Subsection (d), a clerk of a court  
23 may not file a litigation, original proceeding, appeal, or other  
24 claim presented by a vexatious litigant [~~subject to a pre-filing~~  
25 ~~order under Section 11.101~~] unless the litigant obtains an order  
26 from the appropriate local administrative judge permitting the  
27 filing.

1 (c) If the local administrative judge issues an order  
2 permitting the filing of the litigation [~~under Subsection (b)~~], the  
3 litigation remains stayed and the defendant need not plead until  
4 the 10th day after the date the defendant is served with a copy of  
5 the order.

6 (d) A clerk of a court of appeals may file an appeal from an  
7 [~~a pre-filing~~] order entered under Subchapter B [~~Section 11.101~~]  
8 designating a person a vexatious litigant or a timely filed writ of  
9 mandamus under Section 11.102 [~~11.102(c)~~].

10 SECTION 12. Subchapter C, Chapter 11, Civil Practice and  
11 Remedies Code, is amended by adding Section 11.1035 to read as  
12 follows:

13 Sec. 11.1035. MISTAKEN FILING. (a) If the clerk mistakenly  
14 files litigation presented by a vexatious litigant without an order  
15 from the appropriate local administrative judge, any party may file  
16 with the clerk and serve on the plaintiff and the other parties to  
17 the suit a notice stating that the plaintiff is a vexatious litigant  
18 required to obtain permission to file litigation under Section  
19 11.102.

20 (b) Not later than the 24th hour after receiving notice that  
21 a vexatious litigant has filed litigation without obtaining an  
22 order from the appropriate local administrative judge, the clerk  
23 shall notify the court that the litigation was mistakenly filed. On  
24 receiving notice from the clerk, the court shall immediately stay  
25 the litigation and shall dismiss the litigation unless the  
26 plaintiff, not later than the 10th day after the date the notice is  
27 filed, obtains an order from the appropriate local administrative

1 judge under Section 11.102 permitting the filing of the litigation.

2 (c) An order dismissing litigation that was mistakenly  
3 filed by a clerk may not be appealed.

4 SECTION 13. Section 11.104, Civil Practice and Remedies  
5 Code, is amended to read as follows:

6 Sec. 11.104. NOTICE TO OFFICE OF COURT ADMINISTRATION;  
7 DISSEMINATION OF LIST. (a) A clerk of a court shall provide the  
8 Office of Court Administration of the Texas Judicial System a copy  
9 of an [any pre-filing] order issued under Subchapter B determining  
10 that a person is a vexatious litigant [Section 11.101] not later  
11 than the 30th day after the date the [pre-filing] order is signed.

12 (b) The Office of Court Administration of the Texas Judicial  
13 System shall post on the agency's Internet website a list of  
14 vexatious litigants and a copy of the order determining that a  
15 person is a vexatious litigant [subject to pre-filing orders under  
16 Section 11.101]. On request of a person designated a vexatious  
17 litigant, the list shall indicate whether the person designated a  
18 vexatious litigant has filed an appeal of that designation.

19 (c) The Office of Court Administration of the Texas Judicial  
20 System may not remove the name of a vexatious litigant from the  
21 agency's Internet website unless the office receives a written  
22 order from the court that declared the person a vexatious litigant  
23 or from an appellate court. An order of removal affects only an  
24 order determining a person is a vexatious litigant from the same  
25 court. A court of appeals decision reversing the order determining  
26 a person is a vexatious litigant affects only the validity of an  
27 order from the reversed court.

1           SECTION 14. Sections 11.001(3), 11.101, and 11.103(b),  
2 Civil Practice and Remedies Code, are repealed.

3           SECTION 15. The change in law made by this Act applies only  
4 to an action commencing on or after the effective date of this Act.  
5 An action commencing before the effective date of this Act is  
6 governed by the law as it existed on the date when the action  
7 commenced, and that law is continued in effect for that purpose.

8           SECTION 16. This Act takes effect September 1, 2013.