

BILL ANALYSIS

Senate Research Center

H.B. 1463
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain entities have become the target of frivolous lawsuits under state law prohibiting discrimination against persons with disabilities that represent an attempt to force the entity to settle claims for alleged minor violations to avoid expending time and resources to defend itself in court. H.B. 1463 seeks to reduce the negative impact of such lawsuits by requiring a claimant to give notice to such an entity of intent to file a claim under the act and by providing the entity an opportunity to correct the violation before judicial intervention.

H.B. 1463 amends current law relating to procedures for actions alleging failure to comply with certain standards to accommodate persons with disabilities.

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 Section 121.004(b), Human Resources Code, as follows:

(b) Authorizes the person with a disability deprived of his or her civil liberties, subject to Section 121.0041, if applicable, to maintain an action, rather than maintain a cause of action, for damages in a court of competent jurisdiction, and provides there is a conclusive presumption of damages in a certain amount.

SECTION 2. Amends Chapter 121, Human Resources Code, by adding Section 121.0041, as follows:

Sec. 121.0041. PROCEDURES FOR CERTAIN ACTIONS; OPPORTUNITY TO CURE. (a) Defines "claimant" and "respondent."

(b) Provides that this section applies only to an action under Section 121.004(b) alleging a failure to comply with certain applicable standards required under Chapter 469 (Elimination of Architectural Barriers), Government Code, or other applicable state or federal laws that require compliance with certain specified standards, including Internet website accessibility guidelines, to accommodate persons with disabilities.

(c) Requires the claimant, not later than the 60th day before the date an action to which this section applies is filed, to give written notice of the claim to the respondent. Authorizes the notice to be given in a manner prescribed for service of process in a civil action. Provides that the written notice:

(1) is required to state certain information relating to the claimant and alleged violations; and

(2) is prohibited from demanding a sum of damages, request settlement, or offer to settle the claim without a determination of whether a condition stated in the notice is excused by law or may be remedied.

(d) Authorizes a respondent who has received a written notice under Subsection (c) to correct the alleged violation before the earliest date on which the claimant may file the action.

(e) Requires a respondent who has corrected an alleged violation to provide a notice of the correction to the claimant that describes each correction and the manner in which the correction addresses the alleged violation. Requires the respondent, if the respondent concludes that an alleged violation has not occurred and that a correction is not necessary, to provide the claimant an explanation of the respondent's conclusion. Authorizes the notice of correction or explanation to be given in a manner prescribed for service of process in a civil action.

(f) Requires a claimant, if the claimant files an action to which this section applies, to establish by a preponderance of the evidence that the respondent has not corrected one or more of the alleged violations stated in the written notice provided under Subsection (c).

(g) Authorizes the respondent, if an action is filed, to file a plea in abatement and request an evidentiary hearing on the plea. Requires the court to abate the action for a period not to exceed 60 days after the date of the hearing if the court finds by a preponderance of the evidence that the respondent initiated action to correct the alleged violation during the time allowed under Subsection (d), the respondent could not complete the corrections within that time, and the corrections will be completed by the end of the period of abatement.

(h) Provides that if a respondent has provided the notice of correction or has completed corrections during a period of abatement under Subsection (g):

(1) the claimant is authorized to file a motion to dismiss the action without prejudice; or

(2) the respondent is authorized to file a motion for summary judgment in accordance with the Texas Rules of Civil Procedure.

SECTION 3. Effective date: September 1, 2017.