

By: Leach

H.B. No. 2730

A BILL TO BE ENTITLED

AN ACT

relating to civil actions involving the exercise of certain constitutional rights.

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

SECTION 1. Sections 27.001(2) and (6), Civil Practice and Remedies Code, are amended to read as follows:

(2) "Exercise of the constitutional right to petition, speak freely, or associate freely [~~of association~~]" means the exercise of the right to petition, speak freely, or associate freely as those rights are provided by the constitutions of this state and the United States, as applied by the courts of this state and the United States [~~a communication between individuals who join together to collectively express, promote, pursue, or defend common interests~~].

(6) "Legal action" means a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests substantive relief, regardless of whether the relief is legal or equitable [~~relief~~].

The term does not include:

(A) a motion or action related to discovery made or taken under the Texas Rules of Civil Procedure, including a motion to compel, or objection to, discovery, a motion seeking a protective order related to discovery, or the issuance of a subpoena;

- 1 (B) a motion for summary judgment;
- 2 (C) a motion to dismiss a legal action under
- 3 Section 27.003;
- 4 (D) a procedure that relates to enforcement of a
- 5 final court order; or
- 6 (E) a motion for sanctions or award of attorney's
- 7 fees.

8 SECTION 2. Section 27.002, Civil Practice and Remedies
9 Code, is amended to read as follows:

10 Sec. 27.002. PURPOSE. The purpose of this chapter is to
11 provide a set of procedures to encourage and safeguard the
12 constitutional rights of persons to petition, speak freely,
13 associate freely, and otherwise participate in government to the
14 maximum extent permitted by law and, at the same time, protect the
15 rights of a person to file meritorious lawsuits for demonstrable
16 injury.

17 SECTION 3. Section 27.003(a), Civil Practice and Remedies
18 Code, is amended to read as follows:

19 (a) If a legal action is based on~~[, relates to,]~~ or is in
20 response to a party's exercise of the constitutional right ~~[of free~~
21 ~~speech, right]~~ to petition, speak freely, or associate freely
22 ~~[right of association]~~, that party may file a motion to dismiss the
23 legal action.

24 SECTION 4. Section 27.004, Civil Practice and Remedies
25 Code, is amended by adding Subsections (d) and (e) to read as
26 follows:

27 (d) A hearing on a motion to dismiss filed under this

1 chapter must be set not earlier than 21 days after service of the
2 motion.

3 (e) Each party must have at least 14 days' notice of a
4 hearing on a motion to dismiss filed under this chapter.

5 SECTION 5. Section 27.005, Civil Practice and Remedies
6 Code, is amended by amending Subsections (a), and (b), and adding
7 Subsection (e) to read as follows:

8 (a) Except as provided by Subsection (e), the [The] court
9 must rule on a motion under Section 27.003 not later than the 30th
10 day following the date of the hearing on the motion.

11 (b) Except as provided by Subsection (c), on the motion of a
12 party under Section 27.003, a court shall dismiss a legal action
13 against the moving party if the moving party shows by a
14 preponderance of the evidence that the legal action is based on,
15 ~~[relates to,]~~ or is in response to the party's exercise of the
16 constitutional right to petition, speak freely, or associate freely
17 [+

18 (1) the right of free speech,

19 (2) the right to petition, or

20 (3) the right of association].

21 (e) The court may not rule on a motion to dismiss filed under
22 this chapter if the responding party files a nonsuit of the
23 challenged legal action on or before the third day before the date
24 of the hearing on the motion.

25 SECTION 6. Section 27.008, Civil Practice and Remedies
26 Code, is amended to read as follows:

27 Sec. 27.008. APPEAL. (a) If a court does not rule on a

1 motion to dismiss under Section 27.003 in the time prescribed by
2 Section 27.005(a) [~~27.005~~], the motion is considered to have been
3 denied by operation of law and the moving party may appeal.

4 (b) An appellate court shall expedite an appeal or other
5 writ, whether interlocutory or not, from a trial court order on a
6 motion to dismiss a legal action under Section 27.003 or from a
7 trial court's failure to rule on that motion in the time prescribed
8 by Section 27.005(a) [~~27.005~~].

9 SECTION 7. Section 27.009, Civil Practice and Remedies
10 Code, is amended by adding Subsection (c) to read as follows:

11 (c) The court may not award any costs, fees, expenses, or
12 sanctions for a motion to dismiss filed under this chapter if the
13 responding party nonsuited the challenged legal action in the time
14 prescribed by Section 27.005(e).

15 SECTION 8. Section 27.010, Civil Practice and Remedies
16 Code, is amended to read as follows:

17 Sec. 27.010. EXEMPTIONS. [~~(a)~~] This chapter does not apply
18 to:

19 (1) an enforcement action that is brought in the name
20 of this state or a political subdivision of this state by the
21 attorney general, a district attorney, a criminal district
22 attorney, or a county attorney;

23 (2) [~~(b) This chapter does not apply to~~] a legal action
24 brought against a person primarily engaged in the business of
25 selling or leasing goods or services, if the statement or conduct
26 arises out of the sale or lease of goods, services, or an insurance
27 product, insurance services, or a commercial transaction in which

1 the intended audience is an actual or potential buyer or customer;i

2 (3) [~~-~~

3 [~~(c) This chapter does not apply to~~] a legal action seeking
4 recovery for bodily injury, wrongful death, or survival or to
5 statements made regarding that legal action;i

6 (4) [~~-~~

7 [~~(d) This chapter does not apply to~~] a legal action brought
8 under the Insurance Code or arising out of an insurance contract;i

9 (5) a compulsory counterclaim under the Texas Rules of
10 Civil Procedure;

11 (6) a legal action filed under Title 1, 2, 4, or 5,
12 Family Code, or an application for a protective order made under
13 Chapter 7A, Code of Criminal Procedure; or

14 (7) a legal action to enforce:

15 (A) a noncompete agreement;

16 (B) a nondisclosure agreement; or

17 (C) a non-disparagement agreement.

18 SECTION 9. Sections 27.001(1), (3), (4), (5), (7), (8), and
19 (9), Civil Practice and Remedies Code, are repealed.

20 SECTION 10. Chapter 27, Civil Practice and Remedies Code,
21 as amended by this Act, applies only to an action filed on or after
22 the effective date of this Act. An action filed before the effective
23 date of this Act is governed by the law in effect immediately before
24 that date, and that law is continued in effect for that purpose.

25 SECTION 11. This Act takes effect September 1, 2019.