

By: Moody

H.B. No. 3547

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 right of association" means a communication between individuals who join together to collectively express, promote, pursue, or defend common interests. The term does not include a communication that is the basis of a claim asserting a misappropriation of a trade secret or a breach of a covenant not to compete.

(6) "Legal action" means a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests legal, ~~or~~ equitable, or declaratory relief.

SECTION 2. The heading to Section 27.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 27.003. MOTION TO DISMISS; RESPONSE.

SECTION 3. Section 27.003, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by this subsection, if ~~if~~ a legal action is based on, relates to, or is in response to a party's

1 exercise of the right of free speech, right to petition, or right of
2 association, that party may file a motion to dismiss the legal
3 action. A party that is a governmental entity or governmental
4 official or employee acting in an official capacity may not file a
5 motion to dismiss under this subsection.

6 (b) A motion to dismiss a legal action under this section
7 must be filed not later than the 60th day after the date of service
8 of the legal action. The parties may agree to extend the time to
9 file a motion under this section, or the court may extend the time
10 to file a motion under this section on a showing of good cause.

11 (d) The moving party shall provide a nonmoving party written
12 notice of the date and time of the hearing on the motion to dismiss
13 not later than the 14th day before the date of the hearing unless
14 otherwise provided by an agreement of the parties or an order of the
15 court.

16 (e) A party responding to the motion to dismiss shall file
17 the response not later than the seventh day before the date of the
18 hearing on the motion to dismiss unless otherwise provided by an
19 agreement of the parties or an order of the court.

20 SECTION 4. Sections 27.005(a) and (d), Civil Practice and
21 Remedies Code, are amended to read as follows:

22 (a) The court must rule on a motion under Section 27.003 not
23 later than the 30th day following the date on which ~~of~~ the hearing
24 on the motion concludes.

25 (d) Notwithstanding the provisions of Subsection (c), the
26 court shall dismiss a legal action against the moving party if the
27 moving party establishes that the legal action fails as a matter of

1 law [~~by a preponderance of the evidence each essential element of a~~
2 ~~valid defense to the nonmovant's claim~~].

3 SECTION 5. The heading to Section 27.006, Civil Practice
4 and Remedies Code, is amended to read as follows:

5 Sec. 27.006. PROOF [~~EVIDENCE~~].

6 SECTION 6. Section 27.006(a), Civil Practice and Remedies
7 Code, is amended to read as follows:

8 (a) In determining whether a legal action should be
9 dismissed under this chapter, the court shall consider the
10 pleadings, admissible evidence submitted by the parties, and
11 supporting and opposing affidavits stating the facts on which the
12 liability or defense is based.

13 SECTION 7. Chapter 27, Civil Practice and Remedies Code, is
14 amended by adding Section 27.0075 to read as follows:

15 Sec. 27.0075. EFFECT OF RULING. (a) A court's ruling on a
16 motion filed under Section 27.003 or the fact that the court made
17 the ruling is not admissible in evidence at any later stage of the
18 legal action.

19 (b) A court's ruling on a motion filed under Section 27.003
20 does not affect a party's applicable burden of proof.

21 SECTION 8. Section 27.009(a), Civil Practice and Remedies
22 Code, is amended to read as follows:

23 (a) If the court orders dismissal of a legal action under
24 this chapter, the court [~~shall award to the moving party~~]:

25 (1) shall award to the moving party court costs and[7]
26 reasonable attorney's fees[7, ~~and other expenses~~] incurred in
27 defending against the legal action [~~as justice and equity may~~

1 ~~require~~]; and

2 (2) may award to the moving party sanctions against
3 the party who brought the legal action as the court determines
4 sufficient to deter the party who brought the legal action from
5 bringing similar actions described in this chapter.

6 SECTION 9. The heading to Section 27.010, Civil Practice
7 and Remedies Code, is amended to read as follows:

8 Sec. 27.010. APPLICABILITY OF CHAPTER [EXEMPTIONS].

9 SECTION 10. Section 27.010, Civil Practice and Remedies
10 Code, is amended by adding Subsections (c-1) and (e) to read as
11 follows:

12 (c-1) Notwithstanding Subsections (b) and (c), this chapter
13 applies to a legal action against a person based on the creation,
14 dissemination, exhibition, advertisement, or other similar
15 promotion of a dramatic, literary, musical, political, or other
16 artistic work, including a motion picture or television program, or
17 an article published in a newspaper or magazine of general
18 circulation.

19 (e) This chapter does not apply to an action filed under
20 Title 1, 2, 4, or 5, Family Code, or an application for a protective
21 order under Chapter 7A, Code of Criminal Procedure.

22 SECTION 11. Section 27.011, Civil Practice and Remedies
23 Code, is amended by adding Subsection (c) to read as follows:

24 (c) This chapter does not limit or preclude the enforcement
25 by a legislative or executive body or a public agency of the rules
26 of procedure and rules of order of the body or agency.

27 SECTION 12. Section 27.007, Civil Practice and Remedies

1 Code, is repealed.

2 SECTION 13. Chapter 27, Civil Practice and Remedies Code,
3 as amended by this Act, applies only to an action filed on or after
4 the effective date of this Act. An action filed before the
5 effective date of this Act is governed by the law applicable to the
6 action immediately before the effective date of this Act, and that
7 law is continued in effect for that purpose.

8 SECTION 14. This Act takes effect September 1, 2019.