

By: Paxton

S.B. No. 2162

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 Code,  
9 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 Code,  
25 is amended by adding Subsections (d) and (e) to read as follows:

26            (d) A hearing on a motion to dismiss filed under this  
27 chapter must be set not earlier than 21 days after service of the

1 motion.

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

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

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

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

17 ~~(1) the right of free speech,~~

18 ~~(2) the right to petition, or~~

19 ~~(3) the right of association].~~

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

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

26 Sec. 27.008. APPEAL. (a) If a court does not rule on a  
27 motion to dismiss under Section 27.003 in the time prescribed by

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

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

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

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

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

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

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

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

1           (3) ~~[-~~

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

5           (4) ~~[-~~

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

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

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

13           (7) a legal action to enforce:

14                   (A) a noncompete agreement;

15                   (B) a nondisclosure agreement; or

16                   (C) a non-disparagement agreement.

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

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

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