

By: Dutton

H.B. No. 1716

A BILL TO BE ENTITLED

AN ACT

relating to the personal liability of the attorney general for certain frivolous lawsuits.

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

SECTION 1. Subchapter A, Chapter 402, Government Code, is amended by adding Section 402.011 to read as follows:

Sec. 402.011. PERSONAL LIABILITY OF ATTORNEY GENERAL FOR FRIVOLOUS ACTION. (a) In this section, "frivolous civil action" means a civil cause of action to which the state is a party that:

(1) is prosecuted by the attorney general in a court of another state or in federal court; and

(2) the court in which the cause is filed determines:

(A) has no basis in fact; or

(B) is not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(b) Notwithstanding any other law, the attorney general is personally liable to the state for the total cost of prosecution by the attorney general of a frivolous civil action.

(c) Not later than the 180th day after the date the court makes a determination described by Subsection (a)(2), the attorney general shall pay into the state treasury the amount described by Subsection (b), as determined by the comptroller, using the attorney general's personal funds.

1 (d) The attorney general may not assert official immunity or
2 any other form of immunity as a defense against liability under this
3 section.

4 (e) The comptroller may request information necessary to
5 determine the amount described by Subsection (b) from the office of
6 the attorney general. The office of the attorney general shall
7 provide the requested information in a reasonable amount of time.

8 SECTION 2. Section 402.011, Government Code, as added by
9 this Act, applies only to a cause of action filed on or after the
10 effective date of this Act. A cause of action filed before the
11 effective date of this Act is governed by the law in effect
12 immediately before the effective date of this Act, and that law is
13 continued in effect for that purpose.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2021.