

BILL ANALYSIS

S.B. 1180
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Civil Commitment Office (TCCO) supervises sexually violent predators at the Texas Civil Commitment Center in Lamb County. The local dockets in that county have become overwhelmed by claims filed by TCCO clients, and the county judge and the district judge have requested that courts be granted the power to dismiss claims brought by TCCO clients that are on their face frivolous or have been previously adjudicated. The sheer volume of frivolous claims filed by TCCO clients has prevented Lamb County from being able to fairly hear claims brought by other members of the community. S.B. 1180 seeks to address this issue by creating an initial step before a formal hearing is held on a claim by a TCCO client that would allow judges to determine whether the claim or a portion of the claim should be dismissed. This legislation would give courts the ability to dismiss such a claim if it is false, frivolous, or malicious. Additionally, courts would be able to dismiss cases if the current claim is one that was previously litigated or dismissed. S.B. 1180 also ensures that if a client's case reaches a court, the court fees will be paid by the client through their trust account.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1 of this bill.

ANALYSIS

S.B. 1180 amends the Civil Practice and Remedies Code to set out procedures governing an action, other than an action brought under the Family Code, brought by a civilly committed individual relating to the individual's inability to pay court costs. The bill defines "civilly committed individual" as a sexually violent predator who has been committed to a facility operated by or under contract with the Texas Civil Commitment Office.

S.B. 1180 provides for the court's dismissal of a false, frivolous, or malicious claim, which may occur either before or after service of process, on a specified related finding and sets out the factors the court may consider in determining whether a claim is frivolous or malicious. The bill further does the following:

- authorizes the court to conduct a hearing to make a determination on the claim, on motion of the court, a party, or the court clerk;
- requires the court on the filing of such a motion to suspend discovery relating to the claim pending the hearing; and
- authorizes a court that dismisses a claim brought by a civilly committed individual housed in a facility operated by or under contract with the office to notify the office of

the dismissal and advise the office, on the court's own motion or the motion of any party or the court clerk, that a mental health evaluation of the individual may be appropriate.

S.B. 1180 requires the civilly committed individual who files an affidavit or unsworn declaration of inability to pay costs to file a separate affidavit or declaration that does the following:

- identifies the court that ordered the individual's civil commitment;
- provides certain information about the individual's previously filed causes of action, allegations, actions, or claims; and
- certifies that all applicable grievance processes have been exhausted and that no court has found the individual to be a vexatious litigant.

The affidavit or unsworn declaration must be accompanied by a certified copy of the civilly committed individual's trust account statement and, if the affidavit or declaration states that a previous action or claim was dismissed as frivolous or malicious, state the date of the final order affirming the dismissal.

S.B. 1180 requires a civilly committed individual who files a claim that is subject to a grievance system established by the office or a facility under contract with the office to file the following with the court:

- an affidavit or unsworn declaration stating the date that the grievance was filed and the date the written decision was received by the individual; and
- a copy of the written decision from the grievance system.

The bill requires a court to dismiss a claim if the civilly committed individual fails to file the claim before the 31st day after the date the individual receives the decision from the grievance system. If a claim is filed before the grievance system procedure is complete, the court is required to stay the proceeding with respect to the claim for a certain period to permit completion of the grievance system procedure.

S.B. 1180 authorizes the court to order the individual who has filed the claim to pay court fees, court costs, and other costs, including expenses incurred by the court or by the office or contracted facility in connection with the claim, in accordance with the bill's provisions and requires the following:

- the court clerk to mail a copy of the order and a certified bill of costs to the office or facility under contract with the office;
- the individual to pay an amount as specified by the bill in accordance with a certain payment schedule;
- the office or an applicable facility, on receipt of the copy of the court's order, to withdraw money from that individual's trust account; and
- the individual to file a certified copy of the individual's trust account statement with the court that reflects the account balance at the time the claim is filed and activity in the account during the preceding six months.

The bill authorizes the individual to authorize payment in addition to the amount required by the court order.

S.B. 1180 authorizes the court to dismiss a claim if the civilly committed individual fails to pay the fees and costs required by the court. The bill does the following:

- prohibits the individual from avoiding such fees and costs by nonsuiting a party or by voluntarily dismissing the action;
- prohibits a court clerk, on receipt of an order assessing fees and costs that indicates the court made the requisite finding for other costs under the bill, from accepting for filing another claim by the individual until the required fees and costs are paid; and
- authorizes a court to allow an individual who has not paid such fees and costs to file a claim for injunctive relief seeking to enjoin an act or failure to act that creates a substantial threat of irreparable injury or serious physical harm to the individual.

S.B. 1180 authorizes a court to hold a hearing relating to the claim at a facility operated by or under contract with the office or through video communications technology that meets specified audio, visual, and recording requirements. With respect to such a hearing, the bill does the following:

- provides for the submission of evidence;
- requires the court to require that the civilly committed individual be provided with a copy of each written statement or document not later than the 14th day before the date on which the hearing is to begin;
- authorizes the court to enter an order dismissing the entire claim or a portion of the claim;
- requires the court, if a portion of the claim is dismissed, to designate the issues and defendants on which the claim may proceed; and
- establishes that an order dismissing the entire claim or a portion of the claim is not subject to interlocutory appeal by the civilly committed individual.

S.B. 1180 authorizes a court to develop a questionnaire for use in that court to be filed by the civilly committed individual for purposes of implementing the bill's provisions.

S.B. 1180 requires the Texas Supreme Court by rule to adopt a system under which a court may refer a suit governed by the bill's provisions to a magistrate for review and recommendation. The adopted system may be funded from money appropriated to the supreme court or from money received by the supreme court through interagency contract or contracts. The bill provides the following:

- the adoption of such a system by rule does not constitute a modification or repeal of the bill's provisions, for purposes of a conflict with the Texas Rules of Civil Procedure; and
- the bill's provisions may not be modified or repealed by a rule adopted by the supreme court.

S.B. 1180 applies only to an action filed on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.