

1-1 By: Murr (Senate Sponsor - Perry) H.B. No. 3360  
1-2 (In the Senate - Received from the House May 3, 2021;  
1-3 May 13, 2021, read first time and referred to Committee on  
1-4 Jurisprudence; May 21, 2021, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>X</u>			
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			

1-13 A BILL TO BE ENTITLED  
1-14 AN ACT

1-15 relating to civil actions by a civilly committed individual.  
1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-17 SECTION 1. Subtitle A, Title 2, Civil Practice and Remedies  
1-18 Code, is amended by adding Chapter 14B to read as follows:  
1-19 CHAPTER 14B. LITIGATION BY CIVILLY COMMITTED INDIVIDUAL  
1-20 SUBCHAPTER A. GENERAL PROVISIONS  
1-21 Sec. 14B.0001. DEFINITIONS. In this chapter:  
1-22 (1) "Civilly committed individual" means a sexually  
1-23 violent predator as defined by Section 841.003, Health and Safety  
1-24 Code, who has been committed to a facility operated by or under  
1-25 contract with the Texas Civil Commitment Office.  
1-26 (2) "Claim" means a cause of action governed by this  
1-27 chapter.  
1-28 (3) "Office" means the Texas Civil Commitment Office.  
1-29 (4) "Trust account" means a civilly committed  
1-30 individual's trust account administered by the office or by a  
1-31 facility under contract with the office.  
1-32 (5) "Unsworn declaration" means a document executed in  
1-33 accordance with Chapter 132.  
1-34 Sec. 14B.0002. SCOPE OF CHAPTER. (a) This chapter applies  
1-35 only to an action, including an appeal or original proceeding,  
1-36 brought by a civilly committed individual in a district, county, or  
1-37 justice court or an appellate court, including the supreme court or  
1-38 the court of criminal appeals, in which an affidavit or unsworn  
1-39 declaration of inability to pay costs is filed by the civilly  
1-40 committed individual.  
1-41 (b) This chapter does not apply to an action brought under  
1-42 the Family Code.  
1-43 SUBCHAPTER B. DISMISSAL OF AND REQUIREMENTS FOR CLAIM  
1-44 Sec. 14B.0051. DISMISSAL OF FALSE, FRIVOLOUS, OR MALICIOUS  
1-45 CLAIM. (a) A court may dismiss a claim, either before or after  
1-46 service of process, if the court finds that:  
1-47 (1) the allegation of poverty in the affidavit or  
1-48 unsworn declaration is false;  
1-49 (2) the claim is frivolous or malicious; or  
1-50 (3) the civilly committed individual filed an  
1-51 affidavit or unsworn declaration required by this chapter that the  
1-52 individual knew was false.  
1-53 (b) In determining whether a claim is frivolous or  
1-54 malicious, the court may consider whether:  
1-55 (1) the claim's realistic chance of ultimate success  
1-56 is slight;  
1-57 (2) the claim has no arguable basis in law or in fact;  
1-58 (3) it is clear that the civilly committed individual  
1-59 cannot prove the facts in support of the claim; or  
1-60 (4) the claim is substantially similar to a previous  
1-61 claim filed by the civilly committed individual because the claim

2-1 arises from the same operative facts.

2-2 (c) In determining whether Subsection (a) applies, the  
 2-3 court may hold a hearing. The hearing may be held before or after  
 2-4 service of process, and it may be held on motion of the court, a  
 2-5 party, or the clerk of the court.

2-6 (d) On the filing of a motion under Subsection (c), the  
 2-7 court shall suspend discovery relating to the claim pending the  
 2-8 hearing.

2-9 (e) A court that dismisses a claim brought by a civilly  
 2-10 committed individual housed in a facility operated by or under  
 2-11 contract with the office may notify the office of the dismissal and,  
 2-12 on the court's own motion or the motion of any party or the clerk of  
 2-13 the court, may advise the office that a mental health evaluation of  
 2-14 the individual may be appropriate.

2-15 Sec. 14B.0052. AFFIDAVIT RELATING TO PREVIOUS FILINGS. (a)  
 2-16 A civilly committed individual who files an affidavit or unsworn  
 2-17 declaration of inability to pay costs shall file a separate  
 2-18 affidavit or declaration:

2-19 (1) identifying the court that ordered the  
 2-20 individual's civil commitment under Chapter 841, Health and Safety  
 2-21 Code;

2-22 (2) indicating whether any cause of action or  
 2-23 allegation contained in the petition has previously been filed in  
 2-24 any other court, and if so, stating the cause of action or  
 2-25 allegation previously filed and complying with Subdivision (6) and  
 2-26 Subsection (b);

2-27 (3) identifying each action, other than an action  
 2-28 under the Family Code, previously brought by the individual in  
 2-29 which the individual was not represented by an attorney, without  
 2-30 regard to whether the individual was civilly committed at the time  
 2-31 the action was brought;

2-32 (4) certifying that all grievance processes  
 2-33 applicable to the matter that is the basis of the claim, if any,  
 2-34 have been exhausted;

2-35 (5) certifying that no court has found the individual  
 2-36 to be a vexatious litigant under Chapter 11; and

2-37 (6) describing each action that was previously brought  
 2-38 by:

2-39 (A) stating the operative facts for which relief  
 2-40 was sought;

2-41 (B) listing the case name, the cause number, and  
 2-42 the court in which the action was brought;

2-43 (C) identifying each party named in the action;  
 2-44 and

2-45 (D) stating the result of the action, including  
 2-46 whether the action or a claim that was a basis for the action was  
 2-47 dismissed as frivolous or malicious under Section 13.001, 14.003,  
 2-48 or 14B.0051 or otherwise.

2-49 (b) If the affidavit or unsworn declaration filed under this  
 2-50 section states that a previous action or claim was dismissed as  
 2-51 frivolous or malicious, the affidavit or unsworn declaration must  
 2-52 state the date of the final order affirming the dismissal.

2-53 (c) The affidavit or unsworn declaration must be  
 2-54 accompanied by the certified copy of the trust account statement  
 2-55 required by Section 14B.0054(f).

2-56 Sec. 14B.0053. GRIEVANCE SYSTEM DECISION; EXHAUSTION OF  
 2-57 ADMINISTRATIVE REMEDIES. (a) A civilly committed individual who  
 2-58 files a claim that is subject to a grievance system established by  
 2-59 the office or a facility under contract with the office shall file  
 2-60 with the court:

2-61 (1) an affidavit or unsworn declaration stating the  
 2-62 date that the grievance was filed and the date the written decision  
 2-63 was received by the individual; and

2-64 (2) a copy of the written decision from the grievance  
 2-65 system.

2-66 (b) A court shall dismiss a claim if the civilly committed  
 2-67 individual fails to file the claim before the 31st day after the  
 2-68 date the individual receives the written decision from the  
 2-69 grievance system.

3-1 (c) If a claim is filed before the grievance system  
 3-2 procedure is complete, the court shall stay the proceeding with  
 3-3 respect to the claim for a period not to exceed 180 days to permit  
 3-4 completion of the grievance system procedure.

3-5 Sec. 14B.0054. COURT FEES, COURT COSTS, OTHER COSTS. (a) A  
 3-6 court may order a civilly committed individual who has filed a claim  
 3-7 to pay court fees, court costs, and other costs in accordance with  
 3-8 this section and Section 14B.0055. The clerk of the court shall mail  
 3-9 a copy of the court's order and a certified bill of costs to the  
 3-10 office or facility under contract with the office, as appropriate.

3-11 (b) On the court's order, the civilly committed individual  
 3-12 shall pay an amount equal to the lesser of:

3-13 (1) 20 percent of the preceding six months' deposits to  
 3-14 the individual's trust account; or

3-15 (2) the total amount of court fees, court costs, and  
 3-16 other costs.

3-17 (c) In each month following the month in which payment is  
 3-18 made under Subsection (b), the civilly committed individual shall  
 3-19 pay an amount equal to the lesser of:

3-20 (1) 10 percent of that month's deposits to the trust  
 3-21 account; or

3-22 (2) the total amount of court fees, court costs, and  
 3-23 other costs that remains unpaid.

3-24 (d) Payments under Subsection (c) shall continue until the  
 3-25 total amount of court fees, court costs, and other costs are paid or  
 3-26 until the civilly committed individual is released from  
 3-27 confinement.

3-28 (e) On receipt of a copy of an order issued under Subsection  
 3-29 (a), the office or facility under contract with the office shall  
 3-30 withdraw money from the trust account in accordance with  
 3-31 Subsections (b), (c), and (d). The office or facility shall hold the  
 3-32 money in a separate account and shall forward the money to the court  
 3-33 clerk on the earlier of the following dates:

3-34 (1) the date the total amount to be forwarded equals  
 3-35 the total amount of court fees, court costs, and other costs that  
 3-36 remains unpaid; or

3-37 (2) the date the civilly committed individual is  
 3-38 released.

3-39 (f) The civilly committed individual shall file a certified  
 3-40 copy of the individual's trust account statement with the court.  
 3-41 The statement must reflect the balance of the account at the time  
 3-42 the claim is filed and activity in the account during the six months  
 3-43 preceding the date on which the claim is filed. The court may  
 3-44 request the office to furnish the information required under this  
 3-45 subsection.

3-46 (g) A civilly committed individual may authorize payment in  
 3-47 addition to that required by this section.

3-48 (h) The court may dismiss a claim if the civilly committed  
 3-49 individual fails to pay fees and costs assessed under this section.

3-50 (i) A civilly committed individual may not avoid the fees  
 3-51 and costs assessed under this section by nonsuiting a party or by  
 3-52 voluntarily dismissing the action.

3-53 Sec. 14B.0055. OTHER COSTS. (a) An order of a court under  
 3-54 Section 14B.0054(a) shall include the costs described by Subsection  
 3-55 (b) if the court finds that:

3-56 (1) the civilly committed individual has previously  
 3-57 filed an action to which this chapter or Chapter 14 applies; and

3-58 (2) a final order has been issued that affirms that the  
 3-59 action was dismissed as frivolous or malicious under Section  
 3-60 13.001, 14.003, or 14B.0051 or otherwise.

3-61 (b) If Subsection (a) applies, costs of court shall include  
 3-62 expenses incurred by the court or by the office or facility under  
 3-63 contract with the office, in connection with the claim and not  
 3-64 otherwise charged to the civilly committed individual under Section  
 3-65 14B.0054, including:

3-66 (1) expenses of service of process;

3-67 (2) postage; and

3-68 (3) transportation, housing, or medical care incurred  
 3-69 in connection with the appearance of the individual in the court for

4-1 any proceeding.

4-2 Sec. 14B.0056. HEARING. (a) The court may hold a hearing  
 4-3 under this chapter at a facility operated by or under contract with  
 4-4 the office or may conduct the hearing with video communications  
 4-5 technology that permits the court to see and hear the civilly  
 4-6 committed individual and that permits the individual to see and  
 4-7 hear the court and any other witness.

4-8 (b) A hearing conducted under this section by video  
 4-9 communications technology shall be recorded on videotape or by  
 4-10 other electronic means. The recording is sufficient to serve as a  
 4-11 permanent record of the hearing.

4-12 Sec. 14B.0057. SUBMISSION OF EVIDENCE. (a) The court may  
 4-13 request a person with an admissible document or admissible  
 4-14 testimony relevant to the subject matter of the hearing to submit a  
 4-15 copy of the document or written statement stating the substance of  
 4-16 the testimony.

4-17 (b) A written statement submitted under this section must be  
 4-18 made under oath or made as an unsworn declaration under Section  
 4-19 132.001.

4-20 (c) A copy of a document submitted under this section must  
 4-21 be accompanied by a certification executed under oath by an  
 4-22 appropriate custodian of the record stating that the copy is  
 4-23 correct and any other matter relating to the admissibility of the  
 4-24 document that the court requires.

4-25 (d) A person submitting a written statement or document  
 4-26 under this section is not required to appear at the hearing.

4-27 (e) The court shall require that the civilly committed  
 4-28 individual be provided with a copy of each written statement or  
 4-29 document not later than the 14th day before the date on which the  
 4-30 hearing is to begin.

4-31 Sec. 14B.0058. DISMISSAL OF CLAIM. (a) The court may enter  
 4-32 an order dismissing the entire claim or a portion of the claim under  
 4-33 this chapter.

4-34 (b) If a portion of the claim is dismissed, the court shall  
 4-35 designate the issues and defendants on which the claim may proceed,  
 4-36 subject to Sections 14B.0054 and 14B.0055.

4-37 (c) An order under this section is not subject to  
 4-38 interlocutory appeal by the civilly committed individual.

4-39 Sec. 14B.0059. EFFECT ON OTHER CLAIMS. (a) Except as  
 4-40 provided by Subsection (b), on receipt of an order assessing fees  
 4-41 and costs under Section 14B.0054 that indicates that the court made  
 4-42 the finding described by Section 14B.0055(a), a clerk of a court may  
 4-43 not accept for filing another claim by the civilly committed  
 4-44 individual until the fees and costs assessed under Section 14B.0054  
 4-45 are paid.

4-46 (b) A court may allow a civilly committed individual who has  
 4-47 not paid the fees and costs assessed against the individual to file  
 4-48 a claim for injunctive relief seeking to enjoin an act or failure to  
 4-49 act that creates a substantial threat of irreparable injury or  
 4-50 serious physical harm to the individual.

4-51 Sec. 14B.0060. QUESTIONNAIRE. To implement this chapter, a  
 4-52 court may develop, for use in that court, a questionnaire to be  
 4-53 filed by the civilly committed individual.

4-54 Sec. 14B.0061. REVIEW AND RECOMMENDATION BY MAGISTRATES.  
 4-55 (a) The supreme court shall, by rule, adopt a system under which a  
 4-56 court may refer a suit governed by this chapter to a magistrate for  
 4-57 review and recommendation.

4-58 (b) The system adopted under Subsection (a) may be funded  
 4-59 from money appropriated to the supreme court or from money received  
 4-60 by the supreme court through interagency contract or contracts.

4-61 (c) For the purposes of Section 14B.0062, the adoption of a  
 4-62 system by rule under Subsection (a) does not constitute a  
 4-63 modification or repeal of a provision of this chapter.

4-64 Sec. 14B.0062. CONFLICT WITH TEXAS RULES OF CIVIL  
 4-65 PROCEDURE. Notwithstanding Section 22.004, Government Code, this  
 4-66 chapter may not be modified or repealed by a rule adopted by the  
 4-67 supreme court.

4-68 SECTION 2. Chapter 14B, Civil Practice and Remedies Code,  
 4-69 as added by this Act, applies only to an action filed on or after the

5-1 effective date of this Act.

5-2 SECTION 3. This Act takes effect September 1, 2021.

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