AN ACT

relating to civil actions by a civilly committed individual.

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

SECTION 1. Subtitle A, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 14A to read as follows:

CHAPTER 14A. LITIGATION BY CIVILLY COMMITTED INDIVIDUAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 14A.001. DEFINITIONS. In this chapter:

(1) "Civilly committed individual" means a sexually violent predator as defined by Section 841.003, Health and Safety Code, who has been committed to a facility operated by or under contract with the Texas Civil Commitment Office.

(2) "Claim" means a cause of action governed by this chapter.

(3) "Office" means the Texas Civil Commitment Office.

(4) "Trust account" means a civilly committed individual's trust account administered by the office or by a facility under contract with the office.

(5) "Unsworn declaration" means a document executed in accordance with Chapter 132.

Sec. 14A.002. SCOPE OF CHAPTER. (a) This chapter applies only to an action, including an appeal or original proceeding, brought by a civilly committed individual in a district, county, or justice court or an appellate court, including the supreme court or

the court of criminal appeals, in which an affidavit or unsworn declaration of inability to pay costs is filed by the civilly committed individual.

(b) This chapter does not apply to an action brought under the Family Code.

SUBCHAPTER B. DISMISSAL OF AND REQUIREMENTS FOR CLAIM

Sec. 14A.051. DISMISSAL OF FALSE, FRIVOLOUS, OR MALICIOUS CLAIM. (a) A court may dismiss a claim, either before or after service of process, if the court finds that:

(1) the allegation of poverty in the affidavit or unsworn declaration is false;

(2) the claim is frivolous or malicious; or

(3) the civilly committed individual filed an affidavit or unsworn declaration required by this chapter that the individual knew was false.

(b) In determining whether a claim is frivolous or malicious, the court may consider whether:

(1) the claim's realistic chance of ultimate success is slight;

(2) the claim has no arguable basis in law or in fact;

(3) it is clear that the civilly committed individual cannot prove the facts in support of the claim; or

(4) the claim is substantially similar to a previous claim filed by the civilly committed individual because the claim arises from the same operative facts.

(c) In determining whether Subsection (a) applies, the court may hold a hearing. The hearing may be held before or after

service of process, and it may be held on motion of the court, a party, or the court clerk.

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

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

Sec. 14A.052. AFFIDAVIT RELATING TO PREVIOUS FILINGS. (a) A civilly committed individual who files an affidavit or unsworn declaration of inability to pay costs shall file a separate affidavit or declaration:

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

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

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

the action was brought;

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

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

(6) describing each action that was previously brought by:

(A) stating the operative facts for which relief was sought;

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

(C) identifying each party named in the action; and

(D) stating the result of the action, including whether the action or a claim that was a basis for the action was dismissed as frivolous or malicious under Section 13.001, 14.003, or 14A.051 or otherwise.

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

(c) The affidavit or unsworn declaration must be accompanied by the certified copy of the trust account statement required by Section 14A.054(f).

Sec. 14A.053. GRIEVANCE SYSTEM DECISION; EXHAUSTION OF ADMINISTRATIVE REMEDIES. (a) 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 shall file with the court:

(1) 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

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

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

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

Sec. 14A.054. COURT FEES, COURT COSTS, OTHER COSTS. (a) A court may order a civilly committed individual who has filed a claim to pay court fees, court costs, and other costs in accordance with this section and Section 14A.055. The court clerk shall mail a copy of the court's order and a certified bill of costs to the office or facility under contract with the office, as appropriate.

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

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

(2) the total amount of court fees, court costs, and

other costs.

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

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

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

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

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

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

(2) the date the civilly committed individual is released.

(f) The civilly committed individual shall file a certified copy of the individual's trust account statement with the court. The statement must reflect the balance of the account at the time the claim is filed and activity in the account during the six months

preceding the date on which the claim is filed. The court may request the office to furnish the information required under this subsection.

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

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

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

Sec. 14A.055. OTHER COSTS. (a) An order under Section 14A.054(a) must include the costs described by Subsection (b) if the court finds that:

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

(2) a final order has been issued that affirms that the action was dismissed as frivolous or malicious under Section 13.001, 14.003, or 14A.051 or otherwise.

(b) If Subsection (a) applies, costs of court must include expenses incurred by the court or by the office or facility under contract with the office, in connection with the claim and not otherwise charged to the civilly committed individual under Section 14A.054, including:

(1) expenses of service of process;

(2) postage; and

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

any proceeding.

Sec. 14A.056. HEARING. (a) The court may hold a hearing under this chapter at a facility operated by or under contract with the office or may conduct the hearing with video communications technology that permits the court to see and hear the civilly committed individual and that permits the individual to see and hear the court and any other witness.

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

Sec. 14A.057. SUBMISSION OF EVIDENCE. (a) The court may request a person with an admissible document or admissible testimony relevant to the subject matter of the hearing to submit a copy of the document or written statement stating the substance of the testimony.

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

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

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

(e) The court shall 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.

Sec. 14A.058. DISMISSAL OF CLAIM. (a) The court may enter an order dismissing the entire claim or a portion of the claim under this chapter.

(b) If a portion of the claim is dismissed, the court shall designate the issues and defendants on which the claim may proceed, subject to Sections 14A.054 and 14A.055.

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

Sec. 14A.059. EFFECT ON OTHER CLAIMS. (a) Except as provided by Subsection (b), on receipt of an order assessing fees and costs under Section 14A.054 that indicates that the court made the finding described by Section 14A.055(a), a court clerk may not accept for filing another claim by the civilly committed individual until the fees and costs assessed under Section 14A.054 are paid.

(b) A court may allow a civilly committed individual who has not paid the fees and costs assessed against the individual 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.

Sec. 14A.060. QUESTIONNAIRE. To implement this chapter, a court may develop, for use in that court, a questionnaire to be filed by the civilly committed individual.

Sec. 14A.061. REVIEW AND RECOMMENDATION BY MAGISTRATES. (a) The supreme court shall, by rule, adopt a system under which a

court may refer a suit governed by this chapter to a magistrate for review and recommendation.

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

(c) For the purposes of Section 14A.062, the adoption of a system by rule under Subsection (a) does not constitute a modification or repeal of a provision of this chapter.

Sec. 14A.062. CONFLICT WITH TEXAS RULES OF CIVIL PROCEDURE. Notwithstanding Section 22.004, Government Code, this chapter may not be modified or repealed by a rule adopted by the supreme court.

SECTION 2. Chapter 14A, Civil Practice and Remedies Code, as added by this Act, applies only to an action filed on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1180 passed the Senate on April 12, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1180 passed the House on May 12, 2023, by the following vote: Yeas 135, Nays 7, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor