

Memorandum

TO: Supreme Court Advisory Committee
FROM: Subcommittee on Rules 500-510
RE: Adoption of Rules for Referral of Chapter 14A action to a Magistrate
DATE: June 13, 2023

I. Matter Referred to Subcommittee:

On June 3, 2023, Chief Justice Nathan Hecht sent a letter to SCAC Chairman Chip Babcock referring the following matter to this subcommittee:

SVP Magistrate Referrals. SB 1179 (Section 10) and SB 1180 (Section 1) add Civil Practice and Remedies Code Chapter 14A to govern actions brought by a sexually violent predator who has filed a Statement of Inability to Afford Payment of Court Costs. New § 14A.061 directs the Court to adopt rules that provides for referral of a Chapter 14A action to a magistrate for review and recommendation. The Committee should draft any recommended rules.

II. Background

This topic was referred to the Subcommittee on Rules 500-510 on June 5, 2023. Since that time, a member of the subcommittee has discussed the new legislation with a representative from Senator Charles Perry's office who confirmed that the legislation was based on Chapter 14 of the Texas Civil Practice and Remedies Code. As the new Section 14A.061 is nearly identical to 14.013 of the Texas Civil Procedure and Remedies Code, the subcommittee member requested any rules that were adopted pursuant to Section 14.013 of the Texas Civil Practice and Remedies Code and was provided with Order of the Supreme Court of Texas Misc. Docket No. 96-9273. This order included rules for a magistrate to review and make recommendations in inmate civil litigation. The subcommittee used these rules as a template to propose rules for magistrates in civil commitment litigation.

III. Comparison of Statutes

Chapter 14 of the Texas Civil Practice and Remedies Code contains the following language that allows the review and recommendation by magistrates in civil inmate litigation:

Section 14.013. 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 [14.014](#), the adoption of a system by rule under Subsection (a) does not constitute a modification or repeal of a provision of this chapter.

Added by Acts 1995, 74th Leg., ch. 378, Sec. 2, eff. June 8, 1995.

The new statute in Chapter 14A of the Texas Civil Practice and Remedies Code reads as follows:

Section 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.

Added by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. TBD, Sec. 1, eff. 5/24/2023.

IV. Discussion

Because there are no substantive differences in the new 2023 statute and the 1995 statute, the SCAC should use the 1996 Miscellaneous Order as a template for the 2023 rule referral. No subcommittee member expressed a dissenting opinion regarding this approach.