

BILL ANALYSIS

H.B. 3360
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Civilly committed sexually violent predators are a highly litigious group and many of their lawsuits may be frivolous or new suits regarding the same facts. There is significant cost to courts in addition to the time spent by the Texas Civil Commitment Office and the Office of the Attorney General when dealing with indigent individuals who are exempt from court costs. H.B. 3360 seeks to reduce frivolous lawsuits concerning civilly committed sexually violent predators by establishing procedures governing an action brought by such an individual relating to the individual's inability to pay court costs.

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 the Texas Supreme Court in SECTION 1 of this bill.

ANALYSIS

H.B. 3360 amends the Civil Practice and Remedies Code to set out procedures governing an action 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. The bill's provisions do not apply to an action that is brought under the Family Code.

H.B. 3360 provides for the court's dismissal of a false, frivolous, or malicious claim, which may occur either before or after service of process. The bill provides the following:

- the court may conduct a hearing to make a determination on the claim, on motion of the court, a party, or the court clerk;
- on the filing of such a motion, the court must suspend discovery relating to the claim pending the hearing; and
- 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, as follows:
 - notify the office of the dismissal; and
 - advise the office, on the court's own motion or the motion of any party or the clerk of the court, that a mental health evaluation of the individual may be appropriate.

H.B. 3360 requires the civilly committed individual to file a separate affidavit or declaration that, as follows:

- provides certain information about the individual's previously filed 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, as follows:

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

H.B. 3360 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.

H.B. 3360 authorizes the court to order the individual who has filed the claim to pay court fees, court costs, and other costs in accordance with the bill's provisions and provides for the following:

- the court clerk must mail a copy of the order and a certified bill of costs to the office or facility under contract with the office;
- the individual must 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, must withdraw money from that individual's trust account;
- the individual must file a certified copy of the individual's trust account statement with the court; and
- the individual may authorize payment in addition to the amount required by the court order.

H.B. 3360 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 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.

H.B. 3360 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 requirements. With respect to such a hearing, the bill, as follows:

- 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.

H.B. 3360 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.

H.B. 3360 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.

EFFECTIVE DATE

September 1, 2021.