

- SUBJECT:** Relating to the designation of a person as a vexatious litigant
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Jackson, Lewis, Bohac, S. Davis, Hartnett, Madden, Raymond, Scott, Thompson
- 0 nays
- 1 present not voting — Castro
- 1 absent — Woolley
- WITNESSES:** For — Guy Herman, Statutory Probate Judges of Texas; (*Registered, but did not testify*: Mike Barnett, Texas Association of Realtors)
- Against — None
- On — Thomas Gray, Tenth Court of Appeals; Carl Reynolds, Office of Court Administration; (*Registered, but did not testify*: Blake Hawthorn)
- BACKGROUND:** Civil Practice and Remedies Code, ch. 11, prohibits vexatious litigants from filing new litigation. A trial court may declare a person to be a vexatious litigant if, in a seven-year period, the person filed at least five lawsuits and despite losing those suits repeatedly relitigates the same underlying issues. The vexatious litigant may appeal the trial court's labeling. Having failed to successfully appeal, a vexatious litigant may seek permission from a local administrative judge to file a new lawsuit only if it appears to the judge that the litigation has merit and has not been filed for the purposes of harassment or delay.
- DIGEST:** CSHB 720 would make changes to the list of vexatious litigants maintained by the Office of Court Administration (OCA) and would grant vexatious litigants the right to appeal a decision by a local administrative judge preventing the litigant from filing additional lawsuits.
- The bill would direct OCA to post on its website a list of vexatious litigants. On request of a person designated a vexatious litigant, the list would have to indicate whether the person had appealed that designation.

Under the bill, designation as a vexatious litigant and a post to that extent on the OCA's website before the effective date of the bill would not be a defense against being labeled a vexatious litigant nor grounds for a cause of action or relief or appeal from a stay, order, or dismissal or any other action taken by a court under Civil Practice and Remedies Code, ch. 11.

A ruling by the local administrative judge preventing the vexatious litigant from filing a new lawsuit would not be grounds for appeal, but the litigant could apply for a writ of mandamus with the appeals court within 30 days. The denial by the appeals court would not be grounds for appeal to the Supreme Court or criminal appeals court.

The bill would include local administrative statutory probate court judges in the definition of a "local administrative judge."

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 72 would strengthen existing law on vexatious litigants by clarifying how the OCA should maintain and display the courts' official list of these individuals to stop them from wasting valuable judicial time and resources.

The bill also would grant vexatious litigants the additional right to appeal an adverse ruling from a local administrative judge denying permission to file a new lawsuit. This would increase the vexatious litigant laws' compliance with the Texas Constitution's open courts requirement. Existing law already allows a person accused of being a vexatious litigant to argue before the trial why he or she should not be labeled as such, to appeal a designation as a vexatious litigant, and, if labeled, to seek permission from a local administrative judge to file a future lawsuit.

**OPPONENTS
SAY:**

The vexatious litigant designation makes it too difficult for a litigant, even if he or she has a valid claim, to file a lawsuit. Tex. Const. Art. 1, sec. 13, states: "All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law." CSHB 720 would not do enough to keep the courthouse door open to valid claims.

NOTES: The companion bill, SB 1029 by Harris, was referred to the Senate State Affairs committee on March 16.