

HB 1834 -- VEXATIOUS LITIGATION

SPONSOR: McGaugh

This bill specifies that in any litigation pending in any court of this state, a defendant may move the court at any time until final judgment is entered, upon notice and hearing, for an order requiring the plaintiff to furnish security or for an order dismissing the litigation. The motion must be based upon the grounds and supported by a showing that the plaintiff is a vexatious litigant and there is not a reasonable probability that he or she will prevail in the litigation against the moving defendant.

At the hearing upon the motion, the court must consider any evidence as may be material to the grounds of the motion, both written or oral and by witnesses or affidavit.

When a motion is filed prior to trial under these provisions, the litigation must be stayed and the moving defendant need not plead until 10 days after the motion has been denied, or if the motion is granted, until 10 days after he or she has received written notice that the required security has been furnished.

If after hearing the evidence on the motion the court determines that the plaintiff is a vexatious litigant the plaintiff will prevail in the litigation against the moving defendant, the court must order the plaintiff to furnish a security in the amount and within the time as specified by the court.

A court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state pro se without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed.

The presiding judge must permit the filing of the litigation only if it appears that the litigation has merit and has not been filed for the purpose to harass or delay. In addition, the presiding judge may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants.

The clerk may not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding judge permitting the filing. The filing of the notice must automatically stay the litigation. The litigation must be automatically dismissed unless the plaintiff obtains an order from the presiding judge permitting the filing within 10 days of the filing of the notice. If the

presiding judge issues an order permitting the filing, the stay of the litigation must remain in effect until 10 days after the defendants are served with a copy of the order.

A vexatious litigant subject to a prefiling order may file an application to vacate the prefiling order. A vexatious litigant whose application was denied must not be permitted to file another application for one year after the date of the denial of the previous application.

A court may vacate a prefiling order and order removal of a vexatious litigant's name from the state courts administrator list of vexatious litigants subject to prefiling orders upon a showing of a material change in the facts upon which the order was granted and that it is just in vacating the order.

This bill is similar to HB 335 with amendment (2015).