

CHAPTER 976

S.B. No. 930

AN ACT

relating to an affidavit of inability to pay costs in a civil case.

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 13 to read as follows:

CHAPTER 13. AFFIDAVIT OF INABILITY TO PAY COSTS

Sec. 13.001. DISMISSAL OF ACTION. (a) A court in which an affidavit of inability to pay under Rule 145, Texas Rules of Civil Procedure, has been filed may dismiss the action on a finding that:

- (1) the allegation of poverty in the affidavit is false; or*
- (2) the action is frivolous or malicious.*

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

- (1) the action's realistic chance of ultimate success is slight;*
- (2) the claim has no arguable basis in law or in fact; or*
- (3) it is clear that the party cannot prove a set of facts in support of the claim.*

(c) An action may be dismissed under Subsection (a) as frivolous or malicious either before or after service of process.

Sec. 13.002. JUDGMENT. Judgment may be rendered for costs at the conclusion of the action as in other cases, but the state is not liable for any of those costs.

SECTION 2. This Act applies only to an action for which an affidavit of inability to pay is filed on or after the effective date of this Act. An action for which an affidavit of inability to pay was filed before the effective date of this Act is covered by the law and the Texas Rules of Civil Procedure in effect on the date the affidavit was filed, and that law and those rules are continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be

suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 22, 1987, by the following vote: Yeas 29, Nays 0. Passed the House on May 26, 1987, by the following vote: Yeas 131, Nays 4, two present not voting.

Approved June 19, 1987.

Effective June 19, 1987.