

- SUBJECT:** Applying statutes covering certain inmate litigation to appellate courts
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Jackson, Lewis, S. Davis, Hartnett, Madden, Raymond, Scott, Woolley
- 0 nays
- 1 present not voting — Castro
- 2 absent — Bohac, Thompson
- WITNESSES:** For — Tom Gray, Tenth Court of Appeals; James T. Worthen, 12th District Court of Appeals; Evelyn Keyes; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Terry Simpson, San Patricio County and County Judges and Commissioners Association)
- Against — (*Registered, but did not testify*: Chris Cunico, Texas Criminal Justice Coalition)
- BACKGROUND:** Civil Practice and Remedies Code, ch. 14 deals with litigation filed by persons in correctional facilities. Sec. 14.002(a) limits the chapter to suits brought by inmates in district, county, justice of the peace, and small claims courts in which an affidavit stating inability to pay costs is filed by an inmate. The chapter includes provisions on the dismissal of claims, affidavits relating to previous filings, the grievance system and the exhaustion of administrative remedies, and court fees and costs.
- DIGEST:** HB 1418 would make the Civil Practice and Remedies Code, ch. 14 dealing with certain inmate litigation apply to appellate courts, including the Texas Supreme Court and the Court of Criminal Appeals.
- The bill would take effect September 1, 2011, and would apply only to an action brought on or after that date.

**SUPPORTERS
SAY:**

HB 1418 is needed to make available to appeals courts the same system to handle certain inmate lawsuits currently used by district, county, justice of the peace, and small claims courts. Since current law does not include appellate courts under ch. 14 of the Civil Practices and Remedies Code dealing with certain inmate lawsuits, the appeals courts cannot evaluate these suits and potentially dismiss them as being frivolous as other courts can. This means that appellate courts are forced to spend countless hours and resources processing claims that other courts would be able to routinely dismiss. HB 1418 would solve this problem by specifying appellate courts in ch. 14.

The problem recently was highlighted by the Sixth Court of Appeals, which noted in an opinion that since the mid-1980s, one inmate has filed 253 separate proceedings, most since 2003.

HB 1418 would not limit inmates' rights or access to courts. The bill would require appellate courts to apply the same standards that all other courts currently must use to evaluate certain inmate suits for dismissal. Most importantly for appeals courts, the criteria would allow them when considering whether a claim is frivolous to consider if it is substantially similar to a previous claim filed by the inmate. When these criteria are met, it would be appropriate for the type of cases that fall under ch. 14 to be dismissed by appeals courts without the current time-consuming processing of the cases.

**OPPONENTS
SAY:**

The state should be cautious about anything that might work to limit inmates' access to the courts, especially if that access could be denied through a dismissal of a case as being frivolous.