

Civil Actions by Patients in the Custody of the Secretary of Social and Rehabilitation Services; House Sub. for SB 74

House Sub. for SB 74 creates a new section in state law requiring sexually violent predators civilly committed to the custody of the Secretary of Social and Rehabilitation Services (SRS) to exhaust all administrative remedies prior to filing any civil action that names as the defendant the State of Kansas, any political subdivision of the state, any public official, the Secretary of SRS, or any SRS employee, and to include proof of exhaustion with the petition. Courts are required to dismiss the case if it is determined that an allegation of poverty is untrue or the action or appeal is frivolous or malicious, the petition fails to state a claim on which relief can be granted, or the petition seeks monetary relief against a defendant who is immune from such relief.

Further, the bill provides that a patient so committed cannot bring a civil action or appeal if on three or more prior occasions the patient, while in the custody of SRS, brought an action or appeal that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted. An exception is made if the patient is under imminent danger of serious physical injury.

The bill specifies that the provisions of this new section do not apply to a writ of *habeas corpus*. However, it amends law that generally defines the right to petition for *habeas corpus* to require a sexually violent predator civilly committed to the custody of SRS to file a petition for a writ of *habeas corpus* within 30 days of the date the action was final. Such time is extended during the pendency of timely attempts to exhaust administrative remedies.