

BILL ANALYSIS

H.B. 1391
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Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current statutes regulating pleadings and other filings in family law cases allow for full public disclosure at the time of filing. The information contained in filings, once obtained, is sometimes used by family attorneys to solicit business. Instant access to this information has created a potentially dangerous environment for those involved in the court proceedings. Some attorneys are contacting respondents so quickly that the process server has not had an opportunity to properly serve the respondent. Negating the time, a petitioner has to prepare for any negative reaction by the respondent places the petitioner in a very vulnerable and dangerous position.

While the Fifth Circuit Court of Appeals found that the solicitation of business in family cases is legal under the United States Constitution, the confidentiality requirements propounded by the bill are not a complete prohibition on the release of this information. H.B.1391 merely advocates that filings in suits affecting the parent-child relationship, divorces, and/or protective orders shall remain confidential for the shorter of the following two time periods: (1) from the date of filing until service of citation; or, (2) from the date of filing until the expiration of 30 days. Once citation has been served, or a 30-day period has expired, the case file would then be available to the general public. Under Chapter 552, Government Code, government entities, such as law enforcement, district clerks, and court clerks, would still be authorized to view the case file prior to the expiration of the confidentiality period.

H.B.1391 amends the Family Code to require the confidentiality of pleadings in three types of family cases filed in Harris County, which are suits affecting the parent-child relationship, divorces, and protective order requests.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

Section 1. Amends Subchapter E, Chapter 6, Family Code, by adding Section 6.410, which applies only to a county with a population of 3.4 million or more. Section 6.410(b) provides that all pleadings and filings and other documents filed with the court in a suit for the dissolution of marriage are confidential is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a party to the suit until after the date of service of citation or the 31st day after the date of filing the suit, whichever date is sooner.

Section 2. Amends Subchapter A, Chapter 82, Family Code, by adding Section 82.010, which applies to a county with a population of 3.4 million or more. Section 82.010(b) provides that an application for a protective order is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a respondent to the application until after the date of service of notice of the application or the date of the hearing on the application, whichever date is sooner. Section

82.010(c) provides that an application requesting the issuance of a temporary ex parte order under Chapter 83 is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a respondent to the application until after the date that the court or law enforcement informs the respondent of the court's order.

Section 3. Amends Chapter 102, Family Code, by adding Section 102.0086, which applies to a county with a population of 3.4 million or more. Additionally, Section 102.0086(b) provides that all pleadings and other documents filed with the court in a suit affecting parent-child relationship are confidential, are excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a party to the suit until after the date of service of citation or the 31st day after the date of the filing, whichever date is sooner.

Section 4. (a) This Act takes effect September 1, 2003. (b) A suit for the dissolution of marriage filed before this date is governed by the law in effect on the date the suit was filed. (c) A suit affecting the parent-child relationship filed before this date is governed by the law in effect on the date the suit was filed. (d) An application for a protective order or temporary ex parte order is governed by the law in effect on the date the application was filed.

EFFECTIVE DATE

September 1, 2003.