

BILL ANALYSIS

C.S.H.B. 2824
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas law requires a court order before a family can be evicted from its home. Eviction cases are filed in justice of the peace courts, and appeals are made to a county court or a county court at law. Most low-income parties to these cases lack the means to secure counsel for the evaluation, settlement, or other resolution of an eviction case on appeal. County courts are more strict regarding rules of evidence and court procedures, and the county courts often find it burdensome when appeals are pursued by parties who do not have representation.

C.S.H.B. 2824 allows a county court or county court at law to appoint an attorney to an indigent party who desires to pursue an appeal of an eviction case. The bill also allows the court to terminate any such appointment for cause.

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.

ANALYSIS

C.S.H.B. 2824 amends the Property Code to authorize a county court or county court at law in which an appeal of an eviction suit is filed, on a written application of any party to the suit, to appoint counsel to attend to the cause of a party who was in possession of the residence at the time the eviction suit was filed in the justice court and who has perfected the appeal on an approved pauper's affidavit. The bill requires the appointed counsel to represent the individual in the proceedings of the suit in the county court or county court at law, and establishes that the appointment terminates at the conclusion of those proceedings. The bill authorizes the court to terminate appointed counsel for cause. The bill prohibits appointed counsel from receiving attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The bill establishes that the county is not responsible for payment of attorney's fees to appointed counsel. The bill requires the court to provide for a method of service of written notice on the parties to an eviction suit of the right to an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2824 differs from the original by authorizing the appropriate court in which an appeal of an eviction suit is filed, on a written application of any party, to appoint counsel to attend to the cause of a specified party, whereas the original requires the court under such circumstances to appoint counsel. The substitute adds a provision not in the original prohibiting appointed counsel from receiving attorney's fees unless the recovery of attorney's fees is provided for by

contract, law, rule, or other regulations. The substitute removes a provision in the original requiring reasonable attorney's fees and expenses of appointed counsel to be taxed by the court in any manner the court considers fair and just. The substitute differs from the original by establishing that the county is not responsible for payment of attorney's fees to appointed counsel, whereas the original requires reasonable attorney's fees and expenses of appointed counsel to be paid by the county in which the suit is filed.