

BILL ANALYSIS

C.S.H.B. 3246
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2008, Bill Carroll, an individual of considerable financial standing, was accused of serial sexual abuse against numerous young children. After the accusation, he divorced his wife and transferred the entirety of his assets to his former spouse. Carroll later pled guilty to and was sentenced for the abuse charges. Despite a significant civil judgment levied against Carroll, the families of the victims received no restitution due to the wholesale transfer of his financial assets to his ex-wife. The bill seeks to provide a mechanism to freeze the assets of a sex offender involved in a lawsuit for the purposes of applying those assets to a subsequent judgment for the plaintiff.

C.S.H.B. 3246 authorizes a court to issue a writ of attachment in a personal injury suit instituted for violations of certain sexual assault provisions in an amount the court determines appropriate to provide for the counseling and medical needs of the plaintiff.

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. 3246 amends the Civil Practice and Remedies Code to provide that a writ of attachment is available to a plaintiff who has general grounds for issuance of the writ because the plaintiff does not seek the attachment for the purpose of injuring or harassing the defendant and the plaintiff will probably lose the debt unless the writ is issued, and if a suit has been instituted for personal injury arising as a result of conduct violating certain sections of the Penal Code related to sexual assault of a child, aggravated sexual assault of a child, continuous sexual abuse of young child or children, or indecency with a child. The bill authorizes a court to issue a writ of attachment in such a suit in an amount the court determines to be appropriate to provide for the counseling and medical needs of the plaintiff. The bill requires a plaintiff or the plaintiff's agent or attorney who applies for such writ of attachment to file with the court an affidavit stating that the plaintiff has general grounds for issuance of the writ because the plaintiff is not seeking the attachment for the purpose of injuring or harassing the defendant and will probably lose the debt unless the writ is issued, the specific grounds for issuance, and the amount of the demand based on the estimated cost of counseling and medical needs of the plaintiff.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3246 adds a provision not in the original to make a writ of attachment available to a plaintiff who has general grounds for the issuance of the writ because the plaintiff is not seeking

the attachment for the purpose of injuring or harassing the defendant and who will probably lose the defendant's debt unless the writ is issued. The substitute adds a provision not in the original to include in the information a plaintiff or the plaintiff's agent or attorney who applies for the writ is required to state in the affidavit that the plaintiff has general grounds for the issuance of the writ because the plaintiff is not seeking the attachment for the purpose of injuring or harassing the defendant and will probably lose the debt unless the writ is issued.