

BILL ANALYSIS

H.B. 1995
By: Elkins
Government Transparency & Operation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that the Texas Uniform Trade Secrets Act should be updated both to conform to recently enacted federal legislation and to reflect changes in state jurisprudence. H.B. 1995 seeks to update provisions of the act to eliminate forum shopping between state and federal courts and ensure uniformity and clarity between state and federal laws.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

H.B. 1995 amends the Civil Practice and Remedies Code to condition the enjoinder of the actual or threatened misappropriation of a trade secret by an injunctive order under the Texas Uniform Trade Secrets Act on the order not prohibiting a person from using general knowledge, skill, and experience that person acquired during employment. The bill authorizes a court to seal court records in an action under that act and establishes the existence in such an action of a presumption that a party is allowed to participate and assist counsel in the presentation of the party's case. The bill authorizes the court at any stage of the action to exclude a party and the party's representative or limit a party's access to the alleged trade secret of another party if other countervailing interests overcome that presumption. The bill requires the court in making that determination to conduct a balancing test that considers the value of an owner's alleged trade secret, the degree of competitive harm an owner would suffer from the dissemination of the owner's alleged trade secret to the other party, whether the owner is alleging that the other party is already in possession of the alleged trade secret, whether a party's representative acts as a competitive decision maker, the degree to which a party's defense would be impaired by limiting that party's access to the alleged trade secret, whether a party or a party's representative possesses specialized expertise that would not be available to a party's outside expert, and the stage of the action.

EFFECTIVE DATE

September 1, 2017.