

BILL ANALYSIS

C.S.H.B. 903
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the unnecessary expenses and wasted time that results when trying to reach small settlements involving a minor. Oftentimes, the lengthy court process prevents those involved from receiving their settlement in a timely manner, which further congests court dockets and creates more hassles for all parties involved. There have been calls to create a more efficient process for these settlements. C.S.H.B. 903 seeks to address this issue by providing for settlement agreements involving a minor under certain conditions.

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

C.S.H.B. 903 amends the Civil Practice and Remedies Code to authorize a person having legal custody of a minor to enter into a settlement agreement with a person against whom the minor has a claim if the following conditions are met:

- a guardian or guardian ad litem has not been appointed for the minor;
- the total amount of the settlement is \$25,000 or less;
- the money to be paid under the settlement agreement is to be paid as provided by the bill; and
- the person entering into the settlement agreement on behalf of the minor completes an affidavit or verified statement that attests that the person has made a reasonable inquiry and that:
 - to the best of the person's knowledge, the minor will be fully compensated by the settlement; or
 - there is no practical way to obtain additional amounts from the party entering into the settlement agreement with the minor.

The bill requires the attorney representing the person entering into the settlement agreement on behalf of the minor, if any, to maintain the affidavit or verified statement in the attorney's file until the second anniversary of the date the minor attains the age of 21 years.

C.S.H.B. 903 requires money payable to a minor under the settlement agreement to be deposited into the registry of:

- the court in which a civil action asserting the settled claim was filed; or
- a court in which the claim could have been filed if no civil action asserting the claim was filed.

A court order is not required to make such a deposit. The bill requires money payable under the settlement agreement that is to be paid by the payment of premium to purchase an annuity to be made by direct payment to the provider of the annuity with the minor designated as the sole beneficiary of the annuity.

C.S.H.B. 903 prohibits the withdrawal, removal, payout, or transfer of money deposited into a court registry except under a court order, on the minor's attainment of 18 years of age, or on the minor's death. The bill provides for the binding effect of a settlement agreement made on a minor's behalf by a legal custodian, as authorized by the bill. The bill provides for certain exemptions from liability in connection with an applicable settlement for a person acting in good faith on a minor's behalf and for a person against whom a minor has a claim who settles that claim in good faith.

C.S.H.B. 903 amends the Property Code to exclude a debt incurred under a settlement agreement made under the bill's provisions from the applicability of a provision authorizing certain persons who hold property of or owe a liquidated debt to a minor without a guardian to make an irrevocable transfer to a custodian for the benefit of the minor.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 903 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement for money payable to a minor under a settlement agreement to be deposited into the registry of the applicable court. The substitute does not include provisions authorizing the following methods of payment to a minor under a settlement agreement:

- cash settlement with representation by an attorney with payment into a trust account maintained by the attorney to be held in a savings account in the sole name of the minor;
- cash settlement without representation by an attorney with payment into a savings account in the sole name of the minor; and
- cash settlement to a minor who is in the permanent managing conservatorship of the Department of Family and Protective Services with payment into a trust account or subaccount of a trust account.

The substitute does not include a provision excluding from the maximum total settlement amount of \$25,000 the reimbursement of medical expenses, liens, and reasonable attorney's fees and other litigation costs.