

BILL ANALYSIS

H.B. 980
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Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas law specifically provides an exception to privilege in collaborative divorce cases for a claim against a third person who did not participate in the collaborative family law process. In 2020, this provision was successfully relied upon by plaintiffs in a civil case between business partners to subpoena and compel the production of both spouses' entire collaborative divorce files. In that case the plaintiffs in the civil case were third parties who did not participate in the collaborative divorce process and the respondent in the civil case was a spouse in the collaborative divorce. Consequently, all information regarding the collaborative law divorce and the suit affecting the parent-child relationship became public knowledge due to the limit on privilege set out in the statute, even though the participants in the collaborative process had an expectation of privacy regarding most of the information. This exception to confidence threatens the collaborative process, which relies on confidentiality and communication between the parties to the process. H.B. 980 seeks to address this issue by removing the exception that allows such a disclosure, thus bringing collaborative marriage dissolution in line with other forms of alternative dispute resolution confidentiality 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. 980 amends the Family Code to remove from the collaborative family law communications that are excluded from the privilege against disclosure such a communication that is sought or offered to prove or disprove a claim against a third person who did not participate in the collaborative family law process. The bill applies to a disclosure made on or after the bill's effective date, regardless of whether the communication that is the subject of the disclosure was made before, on, or after that date.

EFFECTIVE DATE

September 1, 2023.