

BILL ANALYSIS

C.S.S.B. 896
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under the Texas Citizen Participation Act, commonly referred to as the state's anti-SLAPP law, defendants may file motions to dismiss where the pending lawsuit involves the defendant's exercise of certain protected First Amendment rights. Once a motion to dismiss is filed in these scenarios, all discovery and pretrial proceedings are paused until the judge rules on the motion, or if applicable, a ruling on the interlocutory appeal. Unfortunately, this mechanism that was originally intended to safeguard the rights of the public, is now being abused to stop legitimate legal claims and to delay proceedings. Therefore, changes are needed to curb litigation abuse while still protecting defendants' constitutional rights. C.S.S.B. 896 seeks to address this issue by providing for a temporary stay of proceedings in which a motion to dismiss certain civil actions is denied for certain reasons, such as for being frivolous or intended to delay or exempt under the anti-SLAPP law, while providing for the automatic stay for motions that have been denied for all other reasons.

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.S.B. 896 amends the Civil Practice and Remedies Code to establish that, for purposes of an interlocutory appeal of a denial of a motion to dismiss a civil action involving the exercise of certain constitutional rights under the state's anti-SLAPP law, the denial stays commencement of a trial and other proceedings in the trial court until the 61st day after the date the order denying the motion is signed if the order denying the motion states that the motion was:

- denied for not being timely filed;
- denied because the action is exempt under a specified provision of the state's anti-SLAPP law; or
- determined to be frivolous or solely to delay.

The bill authorizes the court of appeals in which the appeal of such a denial is filed to stay the commencement of trial and other proceedings in the trial court on a determination that the appellant is likely to succeed on the merits or in the interest of justice. The bill clarifies that if the motion was denied for any other reason or the order denying the motion does not state a reason, the denial stays commencement of a trial or other proceedings in the trial court pending resolution of the appeal.

C.S.S.B. 896 applies only to the denial of a motion to dismiss ordered on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 896 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed established that a denial of a motion to dismiss a civil action involving the exercise of certain constitutional rights under the state's anti-SLAPP law is not subject to the provision that automatically stays the commencement of a trial and other proceedings in a trial court if the order states that the motion was denied as clearly not timely filed, denied because the action is exempt under the state's anti-SLAPP law, or determined to be frivolous or solely intended to delay, the substitute does not include this establishment. Instead, the substitute establishes that such a denial of a motion stays commencement of a trial and other proceedings in the trial court either:

- until the 61st day after the date the order is signed if the order states the motion was denied for not being timely filed, denied because the action is exempt under a specified provision of the state's anti-SLAPP law, or determined to be frivolous or solely to delay; or
- pending resolution of the appeal if the motion was denied for any other reason or the order does not state a reason.

The substitute also includes an authorization absent from the engrossed for the court of appeals in which the appeal of an order that is stayed for the 61-day period is filed to stay commencement of trial and other proceedings in the trial court on a determination that the appellant is likely to succeed on the merits or in the interest of justice.

Whereas the engrossed applied to an action filed on or after the bill's effective date, the substitute applies to the denial of a motion to dismiss ordered on or after the bill's effective date. With respect to the bill's effective date, the substitute changes the date to provide for its possible immediate effect, contingent on receiving the requisite constitutional vote, whereas the engrossed provided only for the bill to take effect September 1, 2023, with no possibility for immediate effect.