

BILL ANALYSIS

H.B. 4081
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that trade secret lawsuits often require businesses to present confidential information in court and, if not properly protected, this information could be exposed and harm businesses. The bill author has additionally informed the committee that, while current statute offers some protection, clearer procedures could be useful in ensuring that trade secrets remain confidential throughout the process of a lawsuit. H.B. 4081 seeks to address this issue by establishing such a procedure for sealing court documents that contain trade secrets.

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. 4081 amends the Civil Practice and Remedies Code to require a party to an action under the Texas Uniform Trade Secrets Act seeking to seal a document containing the party's own alleged trade secret to do the following:

- file with the trial court and the supreme court a notice of sealing, and an affidavit that does the following:
 - generally describes the type of information contained in the document;
 - provides contact information for subsequent notice of any motion to unseal the document; and
 - sets forth the factual basis for the party's allegation that the information constitutes a trade secret;
- deliver a copy of the document to be sealed to the trial court in a sealed envelope labeled to identify the notice of sealing to which the document corresponds; and
- serve a copy of the notice, affidavit, and document on each other party to the action.

H.B. 4081 requires a party to an action under the act filing a document the party knows another person alleges to contain the person's trade secret to do the following:

- file with the trial court and the supreme court a notice of sealing, and a statement that generally describes the type of information contained in the document and identifies the person who alleges the document contains the person's trade secret;
- deliver a copy of the document to be sealed to the trial court in a sealed envelope labeled to identify the notice of sealing to which the document corresponds; and
- serve a copy of the notice, affidavit, and document on each other party to the action and any person who alleges the document contains the person's trade secret who is not a party to the action.

H.B. 4081 requires a person who alleges a document contains the person's trade secret, not later than the 14th day after the date the person receives a notice of sealing of the document, to file with the trial court and supreme court in the same numbered cause an affidavit that does the following:

- generally describes the type of information contained in the document;
- provides contact information for subsequent notice of any motion to unseal the document; and
- sets forth the factual basis for the person's allegation that the information in the document constitutes a trade secret.

H.B. 4081 requires the following if the trial court receives a notice, statement, and sealed document from the party filing a document the party knows another person alleges to contain the person's trade secret:

- for the document to be treated as filed under seal until the expiration of the time granted by the bill for the person who alleges the document contains the person's trade secret to file an affidavit; and
- if no affidavit is timely filed, for the document to be treated as publicly filed until an applicable affidavit is filed.

The bill requires the document to be treated as permanently filed under seal once the trial court receives a notice, affidavit, and sealed document from a party or person under the bill's provisions.

H.B. 4081 authorizes any person to intervene as a matter of right at any time before or after judgment in an action under the Texas Uniform Trade Secrets Act to seal or unseal a document. The bill authorizes a person, if the person alleges the person's trade secret was filed of public record, to seal the document containing the alleged trade secret by taking the same actions with respect to the document that a party to an applicable action is authorized to take with respect to the party's alleged trade secret under the bill. The bill establishes that the trial court retains continuing jurisdiction to seal or unseal a document filed in an action under the act.

H.B. 4081 authorizes any person to move to unseal any document filed under seal under the bill's provisions and requires the motion, and notice of hearing, to be served on the parties to the action in which the document was filed, and the person who submitted an affidavit alleging a document contains the person's trade secret or that the person's trade secret was filed of public record, by certified mail, return receipt requested, not later than the 14th day before any hearing on the motion in the trial court. The bill requires the trial court to grant the motion and unseal all or part of the document if the person who alleges that the document contains the person's trade secrets fails to demonstrate by a preponderance of the evidence that the document, or a part of the document, contains a trade secret. If the trial court determines that only a part of the document should be unsealed, the trial court is required to redact all information that contains a trade secret before providing the document to the movant. An order granting or denying a motion to unseal a document under the bill's provisions is considered to be severed from the action and is a final judgment that may be appealed by any party or intervenor who participated in the hearing preceding the issuance of the order. The bill prohibits the supreme court from adopting rules in conflict with the bill's provisions, notwithstanding Government Code provisions regarding rules of civil procedure.

H.B. 4081 applies only to a document filed in an action on or after the bill's effective date. A document filed before that date is governed by the law applicable to the document immediately before the bill's effective date, and that law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.