

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 4081
By: Vasut et al. (Hughes)
State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. 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.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 4081 amends current law relating to the sealing of certain documents alleged to contain trade secrets.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 134A, Civil Practice and Remedies Code, by adding Section 134A.0065, as follows:

Sec. 134A.0065. SEALING OF CERTAIN DOCUMENTS. (a) Requires a party to an action under Chapter 134A (Trade Secrets) seeking to seal a document containing the party's own alleged trade secret to:

(1) file with the trial court a notice of sealing and an affidavit generally describing the type of information contained in the document, providing contact information for subsequent notice of any motion to unseal the document, and setting forth the factual basis for the party's allegation that the information constitutes a trade secret;

(2) 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

(3) serve a copy of the notice, affidavit, and document on each other party to the action.

(b) Requires a party to an action under this chapter filing a document the party knows another person alleges to contain the person's trade secret to:

(1) file with the trial court a notice of sealing and a statement generally describing the type of information contained in the document and identifying the person who alleges the document contains the person's trade secret;

(2) 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

(3) 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.

(c) Requires a person who alleges a document contains the person's trade secret receives a notice under Subsection (b) with respect to the document, not later than the 14th day after the date the person receives the notice, to file with the trial court in the same numbered cause an affidavit generally describing the type of information contained in the document, providing contact information for subsequent notice of any motion to unseal the document, and setting forth the factual basis for the person's allegation that the information in the document constitutes a trade secret.

(d) Provides that, if the trial court receives a notice, statement, and sealed document under Subsection (b), the document is required to be treated as filed under seal until the time for filing an affidavit under Subsection (c) expires and, if no affidavit is timely filed under Subsection (c), the document is required to be treated as publicly filed until an affidavit described by that subsection is filed.

(e) Requires that a notice, document, affidavit, and sealed document under Subsection (a) or a notice, statement, affidavit, and sealed document under Subsections (b) and (c), once the trial court receives the document, be treated as permanently filed under seal.

(f) Authorizes any person to intervene as a matter of right at any time before or after judgment in an action under this chapter to seal or unseal a document. 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 action under this chapter is authorized to take with respect to the party's alleged trade secret under Subsection (a).

(g) Provides that the trial court retains continuing jurisdiction to seal or unseal a document filed in an action under this chapter.

(h) Authorizes any person to move to unseal any document filed under seal under this section. Requires that the motion, and notice of hearing, be served on the parties to the action in which the document was filed, and the person who submitted an affidavit under Subsection (c) or (f), by certified mail, return receipt requested, not later than the 14th day before any hearing on the motion in the trial court. 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.

(i) Requires the trial court, if the trial court determines that only a part of the document should be unsealed, to redact all information that contains a trade secret before providing the document to the movant.

(j) Provides that an order granting or denying a motion to unseal a document under Subsection (h) is considered to be severed from the action and is a final judgment that is authorized to be appealed by any party or intervenor who participated in the hearing preceding the issuance of the order.

(k) Prohibits the Supreme Court of Texas, notwithstanding Section 22.004 (Rules of Civil Procedure), Government Code, from adopting rules in conflict with this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2025.