

BILL ANALYSIS

Senate Research Center
78R1927 KSD-D

H.B. 1391
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Jurisprudence
5/13/2003
Engrossed

DIGEST AND PURPOSE

Current statutes regulating pleadings and other filings in family law cases allow for full public disclosure at the time of filing. The information contained in filings, once obtained, is sometimes used by family attorneys to solicit business. The Fifth Circuit Court of Appeals found that the solicitation of business in family cases is legal under the United States Constitution and the confidentiality requirements propounded by the bill are not inconsistent with the court's decision. H.B. 1391 requires the confidentiality of pleadings in three types of family cases filed in Harris County: suits affecting the parent-child relationship, divorces, and protective order requests.

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 Subchapter E, Chapter 6, Family Code, by adding Section 6.410, as follows:

Sec. 6.410. CONFIDENTIALITY OF PLEADINGS. (a) Provides that this section applies only in a county with a population of 3.4 million or more.

(b) Provides that except as otherwise provided by law, all pleadings and other documents filed with the court in a suit for dissolution of a marriage are confidential, are excepted from required public disclosure under Chapter 552, Government Code, and are prohibited from being released to a person who is not a party to the suit until after the date of service of citation or the 31st day after the date of filing the suit, whichever date is sooner.

SECTION 2. Amends Subchapter A, Chapter 82, Family Code, by adding Section 82.010, as follows:

Sec. 82.010. CONFIDENTIALITY OF APPLICATION. (a) Provides that this section applies only in a county with a population of 3.4 million or more.

(b) Provides that except as otherwise provided by law, an application for a protective order is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and is prohibited from being released to a person who is not a respondent to the application until after the date of service of notice of the application or the date of the hearing on the application, whichever date is sooner.

(c) Provides that except as otherwise provided by law, an application requesting the issuance of a temporary ex parte order under Chapter 83 is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and is prohibited from being released to a person who is not a respondent to the application until after the date that the court or law enforcement informs the

respondent of the court's order.

SECTION 3. Amends Chapter 102, Family Code, by adding Section 102.0086, as follows:

Sec. 102.0086. CONFIDENTIALITY OF PLEADINGS. (a) Provides that this section applies only in a county with a population of 3.4 million or more.

(b) Provides that except as otherwise provided by law, all pleadings and other documents filed with the court in a suit affecting the parent-child relationship are confidential, are excepted from required public disclosure under Chapter 552, Government Code, and are prohibited from being released to a person who is not a party to the suit until after the date of service of citation or the 31st day after the date of filing the suit, whichever date is sooner.

SECTION 4. (a) Effective date: September 1, 2003.

(b) Provides that Section 6.410, Family Code, as added by this Act, applies only to a suit for dissolution of a marriage filed on or after the effective date of this Act. Provides that a suit for dissolution of a marriage filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(c) Provides that Section 82.010, Family Code, as added by this Act, applies only to an application under Title 4, Family Code, for a protective order or temporary ex parte order filed on or after the effective date of this Act. Provides that an application for a protective order or temporary ex parte order filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(d) Provides that Section 102.0086, Family Code, as added by this Act, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. Provides that a suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.