

## **BILL ANALYSIS**

Senate Research Center  
81R22646 CAE-F

H.B. 3246  
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Jurisprudence  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The need for this legislation arose out of the Billy Don Carroll case in Austin, Texas. After Carroll was accused of serial sexual abuse against numerous young children, he divorced his wife. Carroll agreed to transfer the entirety of his assets to his former spouse. Carroll later pled guilty to and was sentenced for the abuse charges. Because of the divorce transfer, the minor children and their families face the prospect of receiving no restitution from Carroll for medical and counseling needs.

The bill seeks to provide a mechanism, in appropriate circumstances, to freeze the assets of a sex offender involved in a lawsuit for the purposes of applying those assets to a subsequent judgment for the minor plaintiff to assist minor children and their families to recover medical and counseling costs after their child has been sexually assaulted or raped.

H.B. 3246 amends current law relating to the issuance of a writ of attachment in a civil suit for certain sexual assaults.

### **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 A, Chapter 61, Civil Practice and Remedies Code, by adding Section 61.0021, as follows:

Sec. 61.0021. **GROUND FOR ATTACHMENT IN SUIT FOR SEXUAL ASSAULT.**

(a) Provides that attachment is available to, notwithstanding any other provision of this code, a plaintiff who:

- (1) has general grounds for issuance under Sections 61.001(2) (relating to a writ of original attachment being available if the attachment is not sought for the purpose of injuring or harassing the defendant) and (3) (relating to a writ of original attachment being available if the plaintiff will probably lose his debt unless the writ of attachment is issued); and
- (2) institutes a suit for personal injury arising as a result of conduct that violates Section 22.011(a)(2) (relating to what constitutes the sexual assault of a child), Penal Code; Section 22.021(a)(1)(B) (relating to what constitutes aggravated sexual assault of a child), Penal Code; Section 21.02 (Continuous Sexual Abuse of Young Child or Children), Penal Code; or Section 21.11 (Indecency with a Child), Penal Code.

(b) Authorizes a court to issue a writ of attachment in a suit described by Subsection (a) in an amount the court determines to be appropriate to provide for the counseling and medical needs of the plaintiff.

SECTION 2. Amends Section 61.022, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a plaintiff or the plaintiff's agent or attorney, except as provided by Subsection (a-1), to apply for a writ of attachment, to file with the court an affidavit that states general grounds for issuance under Sections 61.001(1) (relating to a writ of original attachment being available if the defendant is justly indebted to the plaintiff), (2), and (3); the amount of the demand; and specific grounds for issuance under Section 61.002 (relating to certain instances in which an application is available).

(a-1) Requires a plaintiff or the plaintiff's agent or attorney, to apply for a writ of attachment under Section 61.0021, to file with the court an affidavit that states general grounds for issuance under Sections 61.001(2) and (3); specific grounds for issuance under Section 61.0021(a); and the amount of the demand based on the estimated cost of counseling and medical needs of the plaintiff.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.