

## **BILL ANALYSIS**

S.B. 735  
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Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties explain that a 19th century Texas court decision determined that the injury inflicted, rather than the defendant's ability to pay, was the relevant consideration for a jury tasked with assessing exemplary damages, commonly called punitive damages. In a more recent decision, the Texas court overruled that determination and permitted the discovery and use of net worth evidence to support a claim for exemplary damages. The parties note that the latter ruling, which has been codified in law, is detrimental. S.B. 735 seeks to clarify the use of net worth to determine the amount of exemplary damages.

### **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**

S.B. 735 amends the Civil Practice and Remedies Code to authorize a trial court, on the motion of a party and after notice and a hearing, to authorize discovery of evidence of a defendant's net worth if the court finds in a written order that the claimant has demonstrated a substantial likelihood of success on the merits of a claim for exemplary damages. The bill authorizes evidence submitted by a party to the court in support of or in opposition to such a motion to be in the form of an affidavit or a response to discovery. The bill limits the trial court's order, if the trial court authorizes discovery of evidence of a defendant's net worth, to authorizing the use of the least burdensome method available to obtain the net worth evidence. The bill limits the evidence a reviewing court may consider when reviewing an order authorizing or denying discovery of net worth evidence to evidence submitted by the parties to the trial court in support of or in opposition to the motion authorizing the discovery. The bill defines "net worth" as the total assets of a person minus the total liabilities of the person on a date determined appropriate by the trial court.

### **EFFECTIVE DATE**

September 1, 2015.