

BILL ANALYSIS

C.S.H.B. 1766
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Advocates note that Texas courts have generally recognized a defense to a libel action for news media organizations when they accurately report on third-party allegations regarding matters of public concern. These advocates point out that one need look no further than several recent reports of questionable activities in public entities to know that all too often it is the media that first uncovers problems that need to be investigated or for which there needs to be legislative reform. A recent court case called into question the prior interpretation of this defense and left the question unsettled and for the legislature to address. C.S.H.B. 1766 seeks to address this issue.

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

C.S.H.B. 1766 amends the Civil Practice and Remedies Code to make the defense to a libel action that a published statement is the truth applicable to a libel action relating to an accurate reporting of allegations made by a third party regarding a matter of public concern in an action brought against a newspaper or other periodical or broadcaster. The bill establishes that such a defense does not abrogate or lessen any other remedy, right, cause of action, defense, immunity, or privilege available under the Constitution of the United States or this state or as provided by any statute, case, or common law or rule.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1766 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 73.002, Civil Practice and Remedies Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) This section applies to:

(1) a fair, true, and impartial account of:

(A) a judicial proceeding, unless the court has prohibited publication of a matter because in its judgment the interests of justice demand that the matter not be published;

(B) an official proceeding, other than a judicial proceeding, to administer the law;

(C) an executive or legislative proceeding (including a proceeding of a legislative committee), a proceeding in or before a managing board of an educational or eleemosynary institution supported from the public revenue, of the governing body of a city or town, of a county commissioners court, and of a public school board or a report of or debate and statements made in any of those proceedings; or

(D) the proceedings of a public meeting dealing with a public purpose, including statements and discussion at the meeting or other matters of public concern occurring at the meeting; ~~and~~

(2) publication of allegations made by a third party regarding matters of public concern, regardless of the truth or falsity of the allegations; and

(3) reasonable and fair comment on or criticism of an official act of a public official or other matter of public concern published for general information.

(c) This section does not abrogate or lessen any other defense, remedy, immunity, or privilege available under other constitutional, statutory, case, or common law or rule provisions.

(d) This section shall be construed liberally to effectuate its purpose and intent fully.

SECTION 2. The change in law made by this Act applies only to a publication made on or after the effective date of this Act. A publication made before the effective date of this Act is governed by the law applicable to

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 73.005, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 73.005. TRUTH A DEFENSE. (a) The truth of the statement in the publication on which an action for libel is based is a defense to the action.

(b) In an action brought against a newspaper or other periodical or broadcaster, the defense described by Subsection (a) applies to an accurate reporting of allegations made by a third party regarding a matter of public concern.

(c) This section does not abrogate or lessen any other remedy, right, cause of action, defense, immunity, or privilege available under the Constitution of the United States or this state or as provided by any statute, case, or common law or rule.

SECTION 2. The change in law made by this Act applies only to accurate reporting by a newspaper or other periodical or broadcaster made on or after the effective date of this Act. The accurate reporting by

the publication immediately before that date, and that law is continued in effect for that purpose.

a newspaper or other periodical or broadcaster made before the effective date of this Act is governed by the law applicable to the accurate reporting immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.