

## **BILL ANALYSIS**

C.S.H.B. 1693  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that while the affidavit process currently in use for certain civil actions in which a party seeks to prove the cost and necessity of services may be a useful and relatively inexpensive one, certain aspects may require clarification to ensure fair treatment for all parties. C.S.H.B. 1693 seeks to provide greater clarity by revising certain deadlines and clarifying the nature of findings supported by such affidavits.

### **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. 1693 amends the Civil Practice and Remedies Code to establish that an affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is not evidence of and does not support a finding of the causation element of a cause of action that is the basis for a civil action. The bill changes the deadline by which the party offering such an affidavit in evidence or that party's attorney must serve a copy of the affidavit on each other party to the case from at least 30 days before the day on which evidence is first presented at the trial to the earlier of the following:

- 90 days after the date the defendant files an answer;
- the date the offering party must designate any expert witnesses under a court order; or
- the date the offering party must designate any expert witness as required by the Texas Rules of Civil Procedure.

The bill requires the offering party or attorney, if services are first provided later than 90 days after the date the defendant files an answer, to serve a copy of the affidavit on each other party to the case by the date the offering party must designate any expert witness as required by the Texas Rules of Civil Procedure. The bill requires the offering party or attorney, when serving the affidavit, to file notice of that service with the court clerk.

C.S.H.B. 1693 revises the deadline by which a party intending to controvert a claim reflected by such an affidavit must serve a copy of the counteraffidavit on each other party or the party's attorney of record to require such service by the earlier of the following:

- 120 days after the date the defendant files its answer;
- the date the party offering the counteraffidavit must designate expert witnesses under a court order; or

- the date the party offering the counteraffidavit must designate any expert witness as required by the Texas Rules of Civil Procedure.

The bill requires the party offering the counteraffidavit in evidence or the party's attorney, if the applicable services are first provided later than 90 days after the date the defendant files an answer, to serve a copy of the counteraffidavit on each other party to the case by the later of 30 days after service of the affidavit on the party offering the counteraffidavit or the date that party must designate any expert witness as required by the Texas Rules of Civil Procedure.

C.S.H.B. 1693 prohibits the use of such a counteraffidavit to controvert the causation element of the cause of action that is the basis for the civil action. The bill requires the party offering the counteraffidavit in evidence or that party's attorney, when serving the counteraffidavit, to file written notice of that service with the court clerk.

C.S.H.B. 1693 provides for a party's authority to supplement an affidavit or counteraffidavit served by the party if continuing services are provided after a relevant deadline established by the bill and authorizes the alteration of an established deadline by all parties to an action by agreement or with leave of the court.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1693 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a certain specification regarding who may validly make the affidavit.

The substitute revises the deadlines provided by the original for the service of affidavits and counteraffidavits and for supplementing an affidavit or counteraffidavit if continuing services are provided after a relevant deadline. The substitute revises provisions regarding the time at which notice of service must be filed with the court clerk.

The substitute includes provisions establishing deadlines for service of an affidavit or counteraffidavit if services are first provided later than 90 days after the defendant files an answer.