

- SUBJECT:** Confidentiality of family law filings until service on the respondent
- COMMITTEE:** Judicial Affairs — favorable, with amendment
- VOTE:** 6 ayes — Thompson, Hartnett, Capelo, Deshotel, Talton, Uresti
0 nays
3 absent — Garcia, Hinojosa, Solis
- WITNESSES:** For — Charles Bacarisse, Harris County District Clerk; Susan Myres, Houston Bar Association, Family Law Section; Judge Georgia Dempster
Against — Dennis Baggett, Texas Daily Newspaper Association, Texas Press Association
- BACKGROUND:** Family Code, ch. 6, subchapter E provides the rules and procedures for divorce cases; ch. 102 provides the rules and procedures for child custody suits; ch. 82 provides the rules and procedures for suits seeking a protective order; and ch. 83 provides the rules and procedures for receiving an emergency temporary protective order without first notifying the party to be restrained (*ex parte* order).

Government Code, sec. 552 generally requires court records to be open to the public and available on request.
- DIGEST:** HB 2964 as amended would add provisions to Family Code, chs. 6 and 102 to prevent disclosure of any pleadings or other materials filed in a divorce or child custody suit until service had been effected in the suit or for 30 days, whichever was less.

The bill would amend ch. 82 to prohibit releasing the application for a protective order to anyone but the respondent until after it was served or after the hearing on the application, whichever was sooner. It would amend ch. 83 to prohibit releasing an application for a temporary *ex parte* order to anyone but the respondent before the court or law enforcement informed the respondent of the court's order.

The bill would apply only in counties with a population of 2.2 million or more (currently, Dallas and Harris).

The bill would take effect September 1, 2001, and only would apply to divorce and child custody suits and applications for protective orders filed on or after the effective date of the statute.

**SUPPORTERS
SAY:**

HB 2964 would prevent the problem of a spouse, parent, or alleged abuser finding out that a suit had been filed against them before the complaining party could prepare for any consequences that might arise from the filing. This would be especially important when an application for a protective order was filed, since the respondent may have violent tendencies that could be sparked by the request.

Some attorneys' offices currently monitor court filings to gather names of defendants and respondents to whom they can offer their services. This can result in the respondent finding out about a suit filed against them within hours of the filing when the plaintiff had believed that the respondent would not be informed for several days.

The bill would balance the needs of those who file suits or seek protective orders against the public's right to have access to public records by maintaining confidentiality for no more than 30 days. In most cases the information would be available sooner. Regardless, this would not be too great a burden on the public's right to know.

**OPPONENTS
SAY:**

This bill would establish a blanket policy of nondisclosure of court filings in family law situations regardless of the individual circumstances. The public has a strong interest in all public records remaining open that should not be overridden without very good reason and solid proof that disclosure would cause harm that outweighed the public's interest. For example, the bill would hamper people's ability to learn whether their spouse had filed for divorce because they would have to check court filings themselves.

**OTHER
OPPONENTS
SAY:**

HB 2964 should include all counties because the dangers that the bill is trying to address are faced state-wide.

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NOTES: The committee amendment would change the county population coverage from 2.8 million (Harris only) to 2.2 million (adding Dallas).