

SUBJECT: Revising provisions on certain appeals denying a motion to dismiss

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Julie Johnson, Murr, Schofield, Slawson, Vasut
3 nays — Davis, Flores, Moody

SENATE VOTE: On final passage (March 21) — 31 - 0

WITNESSES: For — Andrew Vecera, Ryan, LLC; Lee Parsley, Texans for Lawsuit Reform; Glenn Hamer, Texas Association of Business; Shahmeer Halepota; Randal Mathis (*Registered, but did not testify*: Guy Herman, Statutory Probate Courts of Texas; Richard Bohnert)

Against — Carrie Hurt, Better Business Bureau; Robert Moore, El Paso Matters; Tyler Coward, Foundation for Individual Rights and Expression; Jim Hemphill, Freedom of Information Foundation of Texas; Arif Panju, Institute for Justice; Robert Springer, KHOU-TV Houston; Eric Lassberg, Nexstar Media Group; Laura Prather, Protect Free Speech Coalition; Marc Fuller, Texas Association of Broadcasters; Donnis Baggett, Texas Press Association; John Seago, Texas Right to Life; D. Victoria Baranetsky, The Center for Investigative Reporting (d/b/a Reveal); Natalie Ibe, True Texas Project; James Daire, Yelp Inc.; Jay Adkisson; Tony McDonald; Reid Pillifant (*Registered, but did not testify*: Andrew Hendrickson, ACLU of Texas; Irl Barg, Kevin Welch, EFF-Austin; Kelley Shannon, Freedom of Information Foundation of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen)

BACKGROUND: Civil Practice and Remedies Code sec. 51.014 establishes that an interlocutory appeal to deny a motion to dismiss a legal action, made in relation to the exercise of the right of free speech, right to petition, or right of association, stays all other proceedings in the trial court pending resolution of that appeal.

Concerns have been raised that defendants can file motions to dismiss

pending lawsuits under Civil Practice and Remedies Code sec. 51.014 with the intention of strategically delaying legal proceedings.

DIGEST: CSSB 896 would amend Civil Practice and Remedies Code sec. 51.014 to establish that an interlocutory appeal denying a motion to dismiss a legal action based on or in response to a party's exercise of the right to free speech, right to petition, or right of association would stay the commencement of a trial and other proceedings in the trial court under certain conditions established by the bill.

If the order denying the motion stated that the motion was denied as not timely filed, denied because the action was exempt, or determined to be frivolous or solely intended to delay, the denial of the motion to dismiss would stay the commencement of a trial and other proceedings in the trial court until the 61st day after the date the order denying the motion was signed. The court of appeals in which the appeal was filed could stay the commencement of trial and other proceedings in the trial court on a determination that the appellant was likely to succeed on the merits or in the interest of justice.

If the order did not state a reason for denying the motion or if the motion was denied for a reason not otherwise provided for in the bill, the denial of a motion to dismiss would stay the commencement of a trial and other proceedings in the trial court pending resolution of the appeal.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023. The bill only would apply to the denial of a motion to dismiss ordered on or after the effective date.