

BILL ANALYSIS

C.S.H.B. 3356
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note recent reports detailing the high incidence of mistreatment of certain individuals who have entered into structured settlement agreements which allow an individual receiving an annuity to sell a portion of that annuity for a lump sum. These parties express concern regarding the public availability of information relevant to the individual or agreement, which may increase the risk of identity theft or harassment. C.S.H.B. 3356 seeks to address this issue by providing for certain information found in such an agreement to be redacted.

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. 3356 amends the Civil Practice and Remedies Code to require a court, if an application under the Structured Settlement Protection Act for approval of a transfer of structured settlement payment rights includes a written request by the payee to conceal from public inspection the personally identifiable information of the payee and the court and each interested party required to receive notice receive complete, unredacted copies of the application, other pleadings, and any order in the prescribed time before the hearing on the application, as applicable, to permit the full redaction in any application, other pleadings, or any order filed or submitted of the name of the payee, the address of the payee, or other information that could reasonably be used to determine the identity or address of the payee, including the names of dependents, family members, and beneficiaries. The bill, with respect to any order issued approving or denying the transfer of structured settlement payment rights:

- requires a copy of the order, with the applicable information redacted, to be filed as part of the public record;
- requires an unredacted copy of the order to be issued under seal, and be provided to the transferee and each interested party entitled to notice, at the same time as the filing; and
- authorizes the court on its own initiative, or requires the court on the motion of any person including a member of the general public, to unseal the unredacted order and make the order part of the public record not earlier than six months after the date the order is issued.

C.S.H.B. 3356 makes a specified rule of the Texas Rules of Civil Procedures relating to sealing court records applicable to all court proceedings and filings under the Structured Settlement Protection Act, but exempts a party from that rule in order to redact the payee's personally identifiable information under the bill's provisions or for the purpose of issuing an unredacted copy of the order under seal under the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3356 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 141.006, Civil Practices and Remedies Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other law, including Rule 76a, Texas Rules of Civil Procedure,

if the application under this chapter for approval of a transfer of structured settlement of payment rights includes a written request by the payee to conceal from public inspection the personally identifiable information of the payee and each interested party or other party required to receive notice under this chapter receives a complete un-redacted copy of the application within the timeframe under subsection (b) of this section,

the court shall permit the:

(1) sealing of documents containing the name of the payee, address of the payee, or other information that could reasonably be used to determine the identity or address of the payee; or

(2) full redaction of the name of the payee, address of the payee or other information that could reasonably be used to determine the identity or address of the payee.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 141.006, Civil Practice and Remedies Code, is amended by adding Subsections (d) and (e) to read as follows:

(e) Except as provided by this subsection, Rule 76a, Texas Rules of Civil Procedure, applies to all court proceedings and filings under this chapter. A party is not required to comply with that rule in order to redact the payee's personally identifiable information under Subsection (d)(1) or for the purpose of issuing an unredacted copy of the order under seal under Subsection (d)(2).

(d) If the application under this chapter for approval of a transfer of structured settlement payment rights includes a written request by the payee to conceal from public inspection the personally identifiable information of the payee and the court and each interested party required to receive notice under Subsection (b) receive complete, unredacted copies of the application, other pleadings, and any order in the time provided by Subsection (b), as applicable:

(1) in any application, other pleadings, or any order filed or submitted,

the court shall permit the

full redaction of the name of the payee, the address of the payee, and other information that could reasonably be used to determine the identity or address of the payee,

including the names of dependents, family members, and beneficiaries; and

(2) with respect to any order issued approving or denying the transfer of structured settlement payment rights:

(A) a copy of the order, with the information described by Subdivision (1) redacted, shall be filed as part of the public record;

(B) at the same time as the filing under Paragraph (A), an unredacted copy of the order shall be issued under seal and shall be provided to the transferee and each interested party entitled to notice under Subsection (b); and

(C) not earlier than six months after the date the order is issued, the court on its own initiative may, or on the motion of any person including a member of the general public shall, unseal the unredacted order and make the order part of the public record.

SECTION 2. 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, 2017.

SECTION 2. Same as introduced version.