

BILL ANALYSIS

C.S.H.B. 685
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

As court records are converted from paper to electronic storage in a database, it has been reported that third-party vendors commonly download or purchase such records from a database and sell them to the public. Concerns have been raised that this practice may generate inaccurate or wrongfully disclosed information from records that do not represent the entirety of a case or that are subsequently expunged, nondisclosed, or sealed by court order and may result in suits against the court clerk or the county. C.S.H.B. 685 seeks to address these concerns by providing immunity from suit and liability to clerks and counties for the release of certain court documents accessed from a state court document database.

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. 685 amends the Government Code to establish that the clerk of the supreme court or the court of criminal appeals or the clerk of a court of appeals, district court, county court, statutory county court, statutory probate court, justice court, or municipal court who in good faith performs the duties as clerk as provided by state law and the Texas Rules of Civil Procedure is not responsible for the management or removal of a document from an authorized state court document database accessible by the public and is not liable for damages resulting from the release of a document in the database. The bill grants immunity from suit and from liability to a court clerk, the county in which the court is located, and the commissioners court of that county for the release or disclosure of information that is confidential or otherwise prohibited from disclosure by law, rule, or court order and that is accessed from a state court document database, if the clerk performs the duties as clerk in that manner. The bill establishes that an applicable court clerk is not liable for the release of a sealed or confidential document in the clerk's custody unless the clerk acted intentionally or with malice, reckless disregard, or gross negligence in the release of the document.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 685 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 expands the definition of "court clerk," as it relates to the immunity granted by the bill, to include the clerk of the supreme court or the court of criminal appeals and the clerk of a court of appeals, statutory probate court, justice court, or municipal court.

The substitute includes, with regard to the immunity granted by the bill for the release or disclosure of information that is confidential or otherwise prohibited from disclosure, the condition that the clerk in good faith performs the duties as a clerk as provided by law and the Texas Rules of Civil Procedure, but the substitute does not include the specification that the applicable release or disclosure is by a third party.