

## **BILL ANALYSIS**

C.S.H.B. 4166  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2018, the Texas Supreme Court case *Youngkin v. Hines* held that the Citizens Participation Act, which provides for expedited dismissal procedures intended to protect the exercise of constitutional rights of free speech, freedom to petition, and the right of association, protects an attorney's statements in court on behalf of the client during a judicial proceeding. This interpretation can mean that if a lawyer commits malpractice, the clients cannot sue the lawyer for relief because the law protects the lawyer's right to petition. Concerns have been raised regarding the continued use of this interpretation in court cases when, in reality, these attorneys were never intended to be protected under the act. C.S.H.B. 4166 seeks to ensure that the Citizens Participation Act does not apply in legal malpractice claims.

### **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. 4166 amends the Civil Practice and Remedies Code to establish that provisions relating to expedited dismissal procedures for civil actions involving certain constitutional rights do not apply to a legal action based on a common law legal malpractice claim.

### **EFFECTIVE DATE**

September 1, 2021.

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

While C.S.H.B. 4166 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 provision that appeared in the original establishing that, for purposes of the applicable law governing a certain class of civil actions, a person hired by a party to assist in any legal action is not considered to exercise certain constitutional rights in bringing or defending that action. The substitute includes instead a provision not found in the original which excludes an action based on a legal malpractice claim from the application of that law. The substitute also amends the caption.