

BILL ANALYSIS

Senate Research Center

C.S.S.B. 453
By: Duncan
Jurisprudence
3-18-97
Committee Report (Substituted)

DIGEST

Currently, a judge's ruling on a motion in the course of a lawsuit may only be appealed after a judgment has become final. Recently, the Supreme Court of Texas issued a writ of mandamus to dismiss an improperly subjected party to the Texas legal system whose special appearance had been denied. The writ was issued because Texas law does not allow an interlocutory appeal for a special appearance. Also, if a court improperly denies a motion to join a responsible third party there is no interlocutory appeal for the denial, and the subsequent trial would proceed without all potential liable parties. This bill provides a solution by allowing interlocutory appeals from an order granting or denying a special appearance and a motion to join a responsible party. Additionally this bill provides for an interlocutory appeal from an order granting or denying a plea to the jurisdiction by a governmental unit, sets forth a deadline for an interlocutory appeal relating to an order granting or denying a motion to join a responsible third party, and provides that an interlocutory appeal shall have the effect of staying the commencement of a trial in the trial court pending resolution of the appeal.

PURPOSE

As proposed, C.S.S.B. 453 authorizes a person to appeal an interlocutory order that grants or denies the special appearance of a defendant or grants or denies a motion to join a responsible third party. Additionally, this bill authorizes a person to appeal an interlocutory order that grants or denies a plea to the jurisdiction by a governmental unit, sets forth the deadline for an interlocutory appeal relating to an order granting or denying a motion to join a responsible third party, and sets forth the effect an interlocutory appeal has on the commencement of a trial.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.014, Civil Practice and Remedies Code, to authorize a person to appeal an interlocutory order that, among other actions, grants or denies the special appearance of a defendant under Rule 120a, Texas Rules of Civil Procedure, except in a suit brought under V.T.C.A., Family Code; grants or denies a motion to join a responsible third party under Section 33.004; or grants or denies a plea to the jurisdiction by a governmental unit as that term is defined in Section 101.001 of this code. Prohibits an interlocutory appeal under Subsection (a)(8) from being brought after the 90th day after the filing of the original answer by the defendant or defendants. Requires an interlocutory appeal based on Subsection (a) to have the effect of staying the commencement of a trial court pending resolution of the appeal. Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 51.014, Civil Practice and Remedies Code, to propose an additional appeal from an interlocutory order, sets forth a proposed deadline for an interlocutory appeal based on the granting or denying a motion to join a responsible third party, and proposes that an interlocutory appeal under this section shall have the effect of staying the commencement of a trial in the trial court pending resolution of the appeal. Makes conforming changes.