

Regular Session, 2012

SENATE BILL NO. 506

BY SENATOR CLAITOR

CIVIL PROCEDURE. Provides relative to staying discovery in civil proceedings for cause shown by district attorney or defendant in a related criminal matter. (8/1/12)

1 AN ACT

2 To enact Code of Civil Procedure Article 1426.1, relative to discovery; to provide relative
3 to a stay of discovery in certain civil matters for good cause shown by a district
4 attorney or defendant in a related criminal matter; to provide certain terms,
5 conditions and procedures; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 1426.1 is hereby enacted to read as
8 follows:

9 **Art. 1426.1. Stay of discovery in civil matters; district attorney or criminal**
10 **defendant in a related criminal matter**

11 **A. Upon motion of the district attorney or the defendant in a criminal**
12 **proceeding, a court having jurisdiction over any related pending civil action or**
13 **proceeding may, in the interests of justice and for good cause shown after a**
14 **contradictory hearing with all parties in the civil action, stay all or a portion of**
15 **discovery sought in such civil action or proceeding. The contradictory hearing**
16 **shall be held by the court in the civil action within thirty days of the filing of the**
17 **motion. Good cause shall include, but not be limited to, a finding by the court**

1 that such discovery will adversely affect the ability of the district attorney to
 2 conduct a related criminal investigation or the prosecution of a related felony
 3 criminal case.

4 B. No provision of this Article shall prohibit a party to the stayed
 5 discovery proceeding from moving to have the stay subsequently lifted for good
 6 cause.

7 C. Within thirty days after disposition in the trial court of the related
 8 criminal prosecution, in any matter where a stay has issued, the district
 9 attorney shall file an ex parte motion consenting to the termination of the stay.

10 D. The time during which the civil proceeding is stayed pursuant to this
 11 Article shall not be used to compute the three-year abandonment period of the
 12 civil matter.

13 E. No provisions of this Article shall have applicability to petitions or
 14 proceedings for divorce, custody or child support.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Claitor (SB 506)

Proposed law provides that, upon motion of the district attorney or the defendant in a criminal proceeding, a court having jurisdiction over any related pending civil action or proceeding may, in the interests of justice and for good cause shown after a contradictory hearing with all parties in the civil action, stay all or a portion of discovery sought in such civil action or proceeding. Provides that the contradictory hearing shall be held by the court in the civil action within thirty days of the filing of the motion for stay. Further provides that good cause shall include, but is not limited to, a finding by the court that such discovery will adversely affect the ability of the district attorney to conduct a related criminal investigation or the prosecution of a related felony criminal case.

Proposed law further provides that a party to the stayed discovery proceeding may move to have the stay subsequently lifted for good cause. Further provides that within 30 days of disposition in the trial court, the district attorney shall file an ex parte motion consenting to terminating the stay. Further provides that the time during which the civil proceeding is stayed pursuant to this Article shall not be used to compute the three-year abandonment period of the civil matter. Further provides that the proposed law shall not apply to petitions or proceedings for divorce, custody or child support.

Effective August 1, 2012.

(Adds C.C.P. Art. 1426.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Adds that, in addition to the district attorney, the defendant in a criminal proceeding may file a motion for a stay in a related pending civil proceeding.
2. Adds that the court shall hold a contradictory hearing with all parties in the civil action before staying all or a portion of the civil discovery, and that such contradictory hearing shall be held within thirty days of the filing of the motion.
3. Changes "conclusion" to "disposition in the trial court" of the criminal matter.
4. Revises language relative to non-applicability to abandonment calculations.
5. Adds that this article shall not apply to child support proceedings.