

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1861
By: Eiland et al. (Carona)
Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the last two years natural disasters have greatly impacted Texas. In the aftermath of Hurricane Ike, 2.5 million people lacked power, basic communications were halted, and an emergency evacuation was in order for many areas. Under these circumstances, courts had difficulty maintaining schedules and meeting certain statutory deadlines.

This bill amends Chapter 418 (Emergency Management), Government Code, to signify that the judiciary has a role in emergency preparedness. It amends Section 74.093 (Rules of Administration), Government Code, to permit those rules to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster. It additionally acknowledges the inherent authority of the Supreme Court of Texas, in the event of a disaster, to suspend procedures to conduct any court proceeding affected by a disaster.

C.S.H.B. 1861 amends current law relating to the operation and administration of the judiciary in the event of a disaster.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the district and statutory county court judges in SECTION 2 (Section 74.093(c), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 22, Government Code, by adding Section 22.0035, as follows:

Sec. 22.0035. MODIFICATION AND SUSPENSION OF CERTAIN PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a) Defines "disaster."

(b) Authorizes the supreme court, notwithstanding any other statute, to modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor. Prohibits an order under this section from extending for more than 30 days from the date the order was signed unless renewed by the supreme court.

(c) Authorizes the chief justice of the supreme court, if a disaster prevents the supreme court from acting under Subsection (b), to act on behalf of the supreme court under that subsection.

(d) Authorizes the court of criminal appeals, if a disaster prevents the chief justice from acting under Subsection (c), to act on behalf of the supreme court under Subsection (b).

(e) Authorizes the presiding judge of the court of criminal appeals, if a disaster prevents the court of criminal appeals from acting under Subsection (d), to act on behalf of the supreme court under Subsection (b).

SECTION 2. Amends Section 74.093(c), Government Code, to authorize rules to provide for certain duties, including a coordinated response for the transaction of essential judicial functions in the event of a disaster. Makes nonsubstantive changes.

SECTION 3. Amends Section 418.002, Government Code, as follows:

Sec. 418.002. PURPOSES. Sets forth the purposes of this chapter, including clarifying and strengthening the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters.

SECTION 4. Effective date: upon passage or September 1, 2009.