

BILL ANALYSIS

C.S.H.B. 4068
By: Gonzales
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

On November 19, 2007, the Supreme Court of Texas issued an order creating a task force to ensure judicial readiness in times of emergency, chaired by private attorney, and now House Parliamentarian, Denise Davis. The task force and supreme court quickly recognized that while executive branch agencies in Texas are well along the path to disaster preparedness, the judicial branch is not, and is not recognized in statute as having a role in planning for and responding to emergencies and disasters. The task force believes that the supreme court, as the responsible entity for the administration of courts in Texas, should have additional authority to deal with the circumstances of catastrophic events as they arise and should be given the authority to determine whether a disaster has occurred as well as the nature and extent of the relief that should be granted. In addition, local court systems should be encouraged to develop continuity of operations plans and become engaged in the planning efforts already in place.

C.S.H.B. 4068 authorizes the content of local rules of judicial administration to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster. The bill acknowledges the role of the judiciary in emergency preparedness and authorizes the supreme court to suspend procedures for the conduct of any court proceeding affected by a disaster.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 4068 amends the Government Code to authorize the local rules of administration that must be adopted by district and statutory county court judges in each county to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster in addition to other matters. The bill includes in the purposes of provisions for emergency management clarifying and strengthening the role of the judicial branch in prevention of, preparation for, response to, and recovery from disasters.

C.S.H.B. 4068 authorizes the Supreme Court of Texas to exercise the court's inherent authority by rule or by order or on a case by case basis, with or without the consent of the parties, to suspend procedures for the conduct of any court proceeding affected by a disaster. The bill provides that this authority includes the authority to provide abatements and stays, to toll or modify other filings and service deadlines, to provide for hearings or trials at locations other than the county of suit, to provide for courts of appeal to accept filings and hear arguments in remote courthouses, and to provide for alternative notice requirements. The bill authorizes the chief justice, in the event that a disaster prevents the supreme court from acting, to act on behalf of the supreme court. The bill authorizes the court of criminal appeals, in the event that a disaster prevents either the supreme court or the chief justice from acting, to act on behalf of the chief justice. The bill authorizes the presiding judge of the court of criminal appeals, in the event that a disaster prevents either the supreme court, the chief justice, or the court of criminal appeals from acting, to act on behalf of the court of criminal appeals.

C.S.H.B. 4068 requires the division of emergency management, in preparing and revising the state emergency management plan, to seek the advice and assistance of the judicial branch, in addition to other entities and persons.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute is a Legislative Council Draft, which uses clarification language and reorganizes the sections of HB 4068 to conform to the council's review of the bill.