

1-1 By: Gonzales (Senate Sponsor - Hinojosa) H.B. No. 4068
1-2 (In the Senate - Received from the House May 7, 2009;
1-3 May 8, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 21, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the conduct of judicial proceedings and transaction of
1-9 other essential judicial functions in the event of a disaster.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 22, Government Code, is
1-12 amended by adding Section 22.0035 to read as follows:

1-13 Sec. 22.0035. SUSPENSION OF CERTAIN PROVISIONS RELATING TO
1-14 COURT PROCEEDINGS AFFECTED BY DISASTER. (a) In this section,
1-15 "disaster" has the meaning assigned by Section 418.004.

1-16 (b) Notwithstanding any other statute and to the extent
1-17 permitted by the Texas and United States Constitutions, the supreme
1-18 court may exercise the court's inherent authority by rule or order
1-19 or on a case-by-case basis, with or without the consent of the
1-20 parties, to temporarily suspend the provisions of any order, rule,
1-21 or statute prescribing procedures for the conduct of any court
1-22 proceeding affected by a disaster for the period the proceeding is
1-23 affected. This authority includes the authority to:

1-24 (1) provide an abatement or stay;

1-25 (2) toll or modify a filing or service deadline;

1-26 (3) provide for a hearing or trial to occur at a
1-27 location other than the municipality or county in which the
1-28 proceeding was commenced;

1-29 (4) provide for a court of appeals to accept a filing,
1-30 hear a case, or transact business in a remote courthouse; and

1-31 (5) provide alternate notice requirements.

1-32 (c) If a disaster prevents the supreme court from acting
1-33 under Subsection (b), the chief justice of the supreme court may act
1-34 on behalf of the supreme court under that subsection.

1-35 (d) If a disaster prevents the chief justice from acting
1-36 under Subsection (c), the court of criminal appeals may act on
1-37 behalf of the supreme court under Subsection (b).

1-38 (e) If a disaster prevents the court of criminal appeals
1-39 from acting under Subsection (d), the presiding judge of the court
1-40 of criminal appeals may act on behalf of the supreme court under
1-41 Subsection (b).

1-42 SECTION 2. Section 74.093(c), Government Code, is amended
1-43 to read as follows:

1-44 (c) The rules may provide for:

1-45 (1) the selection and authority of a presiding judge
1-46 of the courts giving preference to a specified class of cases, such
1-47 as civil, criminal, juvenile, or family law cases; ~~and~~

1-48 (2) a coordinated response to ensure the transaction
1-49 of essential judicial functions in the event of a disaster, as
1-50 defined by Section 418.004; and

1-51 (3) any other matter necessary to carry out this
1-52 chapter or to improve the administration and management of the
1-53 court system and its auxiliary services.

1-54 SECTION 3. Section 418.002, Government Code, is amended to
1-55 read as follows:

1-56 Sec. 418.002. PURPOSES. The purposes of this chapter are
1-57 to:

1-58 (1) reduce vulnerability of people and communities of
1-59 this state to damage, injury, and loss of life and property
1-60 resulting from natural or man-made catastrophes, riots, or hostile
1-61 military or paramilitary action;

1-62 (2) prepare for prompt and efficient rescue, care, and
1-63 treatment of persons victimized or threatened by disaster;

1-64 (3) provide a setting conducive to the rapid and

2-1 orderly restoration and rehabilitation of persons and property
2-2 affected by disasters;

2-3 (4) clarify and strengthen the roles of the governor,
2-4 state agencies, the judicial branch, and local governments in
2-5 prevention of, preparation for, response to, and recovery from
2-6 disasters;

2-7 (5) authorize and provide for cooperation in disaster
2-8 mitigation, preparedness, response, and recovery;

2-9 (6) authorize and provide for coordination of
2-10 activities relating to disaster mitigation, preparedness,
2-11 response, and recovery by agencies and officers of this state, and
2-12 similar state-local, interstate, federal-state, and foreign
2-13 activities in which the state and its political subdivisions may
2-14 participate;

2-15 (7) provide an emergency management system embodying
2-16 all aspects of predisaster preparedness and postdisaster response;

2-17 (8) assist in mitigation of disasters caused or
2-18 aggravated by inadequate planning for and regulation of public and
2-19 private facilities and land use; and

2-20 (9) provide the authority and mechanism to respond to
2-21 an energy emergency.

2-22 SECTION 4. Section 418.042(b), Government Code, is amended
2-23 to read as follows:

2-24 (b) In preparing and revising the state emergency
2-25 management plan, the division shall seek the advice and assistance
2-26 of local government, the judicial branch, business, labor,
2-27 industry, agriculture, civic organizations, volunteer
2-28 organizations, and community leaders.

2-29 SECTION 5. This Act takes effect September 1, 2009.

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