

RESOLUTION ANALYSIS

H.J.R. 45
By: Schofield
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties cite a recent court ruling suggesting that state law can be declared unconstitutional by a court without the state, through the attorney general, having the opportunity to appear and defend the constitutionality of the law in question. H.J.R. 45 seeks to present this issue to Texas voters by proposing an amendment requiring a court to provide notice to the attorney general of a challenge to the constitutionality of a state statute and prohibiting the court from making a judgment holding the law unconstitutional for a reasonable period after such notice is provided.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.J.R. 45 proposes an amendment to the Texas Constitution to authorize the legislature to require a court to provide notice to the attorney general of a challenge to the constitutionality of a state statute and to prescribe a reasonable period after the provision of that notice during which the court may not enter a judgment holding the statute unconstitutional. The resolution adds a temporary provision, set to expire January 2, 2018, to establish that specified provisions relating to legal challenges to the constitutionality of state statutes are validated and effective on approval of such constitutional amendment but apply only to a petition, motion, or other pleading filed on or after January 1, 2018.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2017.