

RESOLUTION ANALYSIS

S.J.R. 6
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties cite a recent court ruling suggesting that a state statute 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 statute in question. S.J.R. 6 seeks to present this issue to Texas voters by proposing an amendment authorizing the legislature to require an applicable court to provide notice to the attorney general of a challenge to the constitutionality of a state statute and authorizing the legislature to prescribe a waiting period before the court may enter a judgment holding the statute unconstitutional.

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

S.J.R. 6 proposes an amendment to the Texas Constitution to authorize the legislature to require a court in which a party to litigation files a petition, motion, or other pleading challenging the constitutionality of a state statute to provide notice to the attorney general of the challenge if the party raising the challenge notifies the court that the party is challenging the constitutionality of the statute and to authorize the legislature to prescribe a reasonable period, which may not exceed 45 days, 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.