

## **BILL ANALYSIS**

Senate Research Center  
86R3307 YDB-D

S.B. 40  
By: Zaffirini  
State Affairs  
2/26/2019  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Hurricane Harvey affected the judicial system in numerous ways, including physically damaging courthouses and court buildings; delaying court dockets and jury trials; disrupting communications with county officials, litigants, attorneys, jurors, court personnel, and others; and reducing court security. Due to these difficulties, the Texas Supreme Court (supreme court) issued emergency orders to modify or suspend procedures for cases in courts affected by this natural disaster. Because these orders only last up to 30 days, however, the supreme court has had to renew them multiple times, which is an administrative burden.

Accordingly, S.B. 40 would extend the duration of supreme court orders modifying or suspending court procedures during an emergency from the current 30 days to up to 90 days. S.B. 40 also would allow the chief justice to renew an emergency order without seeking a full vote of the court. These changes would decrease the amount of time devoted to these orders and provide more consistency and reassurance to the courts in areas affected by natural disasters.

What's more, current law authorizes regional presiding judges to designate alternative sites for district courts, county courts, statutory probate courts, and county courts-at-law located in coastal counties to conduct proceedings after a natural disaster. The law, however, only allows the presiding judge to choose an alternative site within the same judicial district for district courts and within the same county for county courts and county courts-at-law. Relatedly, existing statutes do not authorize presiding judges to relocate any court located in a non-coastal county or any municipal or justice of the peace court in the state. These statutes are overly restrictive because massive disasters, such as Harvey, may affect any court in any county, not just coastal ones, and leave no suitable alternative sites within the same judicial district or county.

For this reason, S.B. 40 would allow presiding judges to designate an alternate location outside the judicial district or county for any court to operate after a disaster if the location is the most proximate place where the court can safely and practicably preside.

As proposed, S.B. 40 amends current law relating to locations, terms, sessions, and procedures for conducting court proceedings.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 22.035(b), Government Code, as follows:

(b) Authorizes the Supreme Court of Texas (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 90, rather than 30, days from the date the order was signed unless renewed by the chief justice of the supreme court, rather than by the supreme court.

SECTION 2. Amends Section 24.012(a), Government Code, to add Section 24.0125 to the list of exceptions to the provision that each district court holds in each county in the judicial district terms that commence on the first Mondays in January and July of each year.

SECTION 3. Amends Subchapter A, Chapter 24, Government Code, as follows:

Sec. 24.0125. TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. Authorizes the presiding judge of the administrative judicial region, if a disaster, as defined by Section 418.004 (Definitions) precludes a district court from holding its judicial district terms in accordance with Section 24.012 (Terms and Sessions of Court), to designate the terms and sessions of court, with the approval of the judge of the affected district court, notwithstanding any other law.

SECTION 4. Amends Section 24.033(b), Government Code, as follows:

(b) Deletes existing text providing that this subsection only applies to a disaster that occurs in a first tier coastal county or a second tier coastal county. Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected district, if a disaster, as defined by Section 418.004, precludes a district court from conducting its proceedings at the county seat of that county, to designate for the proceedings an alternate location in the judicial district of the affected court, or outside the judicial district at the location the presiding judge of the administrative judicial region determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings. Makes nonsubstantive changes, notwithstanding any other law.

SECTION 5. Amends Section 25.0016, Government Code, as follows:

Sec. 25.0016. New heading: TERMS OF COURT; TERMS AND SESSIONS OF FOLLOWING CERTAIN DISASTERS. (a) Creates this subsection from existing text.

(b) Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected statutory county court, if a disaster as defined by Section 418.004 precludes a statutory county court from holding its terms in accordance with the order of the commissioners court, to designate the terms and sessions of court, notwithstanding any other law.

SECTION 6. Amends Section 25.0019(b), as follows:

(b) Deletes existing text providing that this subsection only applies to a disaster that occurs in a first tier coastal county or a second tier coastal county. Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected district, if a disaster as defined by Section 418.004 precludes a statutory county court in that county from conducting its proceedings at the county seat, to designate for the proceedings an alternate location in the county or outside the county at the location the presiding judge of the administrative judicial region determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, notwithstanding any other law. Makes nonsubstantive changes.

SECTION 7. Amends Section 25.0032(b), Government Code, as follows:

(b) Deletes existing text providing that this subsection only applies to a disaster that occurs in a first tier coastal county or a second tier coastal county. Authorizes the presiding judge of the statutory probate courts, with the approval of the judge of the affected statutory probate court, if a disaster as defined by Section 418.004 precludes a statutory probate court in that county from conducting its proceedings at the county seat, to designate for the proceedings an alternate location in the county or outside the county at the location the presiding judge of the statutory probate courts determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, notwithstanding any other law. Makes nonsubstantive changes.

SECTION 8. Amends Section 25.0035, Government Code, as follows:

Sec. 25.0035. New heading: TERMS OF COURT; TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Creates this subsection from existing text.

(b) Authorizes the presiding judge of the statutory probate courts, with the approval of the judge of the affected statutory probate court, if a disaster, as defined by Section 418.004 precludes a statutory probate court from holding its terms in accordance with the order of the commissioners court, to designate the terms and sessions of court, notwithstanding any other law.

SECTION 9. Amends the heading of Section 26.002, Government Code, to read as follows:

Sec. 26.002. TERMS OF COURT; TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS.

SECTION 10. Amends Section 26.002, Government Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Amends this subsection to provide that it only applies to the commissioners courts subject to Subsection (b-1).

(b-1) Authorizes the presiding judge of the administrative judicial region, with the approval of the county judge, if a disaster, as defined by Section 418.004, precludes a county court from holding its terms in accordance with the order of the commissioners court, to designate the terms and sessions of court, notwithstanding any other law.

SECTION 11. Amends Section 26.009(b), Government Code, as follows:

(b) Deletes existing text providing that this subsection only applies to a disaster that occurs in a first tier coastal county or a second tier coastal county. Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected county court, if a disaster as defined by Section 418.004 precludes the county court from conducting its proceedings at the county seat, to designate for the proceedings an alternate location in the county or outside the county at the location the presiding judge of the administrative judicial region determines is closest in proximity to the county seat that allows the court to safely and practicably conduct its proceedings, notwithstanding any other law, including Section 26.002(c) (relating to the requirement that terms be held at the county seat). Makes nonsubstantive changes.

SECTION 12. Amends Subchapter C, Chapter 27, Government Code, by adding Section 27.0515, as follows:

Sec. 27.0515. LOCATION FOR COURT PROCEEDINGS AND TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Authorizes the presiding judge of the administrative judicial region in which the county is located, with the approval of the justice of the affected justice court, if a disaster as defined by Section 418.004 precludes a justice court from conducting its proceedings at a location in the court's precinct or in the county seat of that county, to designate for the proceedings an alternate location in the county or outside the county at the location the presiding judge of the administrative judicial region determines is closest in proximity to the court's precinct that allows the court to safely and practicably conduct its proceedings, notwithstanding any other law.

(b) Authorizes the presiding judge of the administrative judicial region, with the approval of the justice of the affected justice court, if a disaster as defined by Section 418.004, precludes a justice court from holding its terms in accordance

with the times prescribed by the commissioners court, to designate the terms and sessions of court, notwithstanding any other law.

SECTION 13. Amends Subchapter A, Chapter 29, Government Code, by adding Section 29.015, as follows:

Sec. 29.015. LOCATION FOR COURT PROCEEDINGS AND TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Authorizes the presiding judge of the administrative judicial region, if a disaster, as defined by Section 418.004, precludes a municipal court from conducting its proceedings at the location assigned for the proceedings, notwithstanding any other law, to designate for the proceedings an alternate location in the corporate limits of the municipality or outside the corporate limits of the municipality at the location the presiding judge of the administrative judicial region determines is closest in proximity to the municipality that allows the court to safely and practicably conduct its proceedings.

(b) Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court, if a disaster, as defined by Section 418.004, precludes a municipal court from holding its terms, to designate the terms and sessions of court, with the approval of the judge of the affected municipal court, notwithstanding any other law.

SECTION 14. Amends Subchapter A, Chapter 30, Government Code, by adding Section 30.000123, as follows:

Sec. 30.000123. LOCATION OF COURT PROCEEDINGS AND TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS. (a) Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court of record, if a disaster as defined by Section 418.004 precludes a municipal court of record from conducting its proceedings at the location assigned for the proceedings, to designate for the proceedings an alternate location: in the corporate limits of the municipality or outside the corporate limits of the municipality at the location the presiding judge of the administrative judicial region determines is closest in proximity to the municipality that allows the court to safely and practicably conduct its proceedings.

(b) Authorizes the presiding judge of the administrative judicial region, with the approval of the judge of the affected municipal court of record, if a disaster, as defined by Section 418.004, precludes a municipal court of record from holding its terms, to designate the terms and sessions of court, notwithstanding any other law.

SECTION 15. Amends Sections 292.001(b) and (d), Local Government Code, as follows:

(b) Requires the building or rooms, except as provided by this subsection and to the extent permitted under other law, to be located in the county seat. Authorizes the building or rooms, if the building or rooms are for housing a county or district court in buildings or rooms designated for that purpose, or for housing county jail facilities, to be located anywhere in the county at the discretion of the commissioners court. Makes a nonsubstantive change.

(d) Creates an exception under Section 27.0515, Government Code, to the prohibition of a justice of the peace court from being housed or conducted in a building outside the court's precinct.

SECTION 16. Amends Section 292.002(a), Local Government Code, as follows:

(a) Deletes existing text providing that this subsection does not apply to a court required by law to sit at the county seat. Requires a county officer who is provided space in the building or facility to maintain an office at the county seat and to keep the original

records of office at that office unless otherwise required during a disaster, as defined by Section 418.004, Government Code.

SECTION 17. Repealer: Section 24.033(a) (relating to the definition of "first tier coastal county" and "second tier coastal county"), Government Code.

Repealer: Section 25.0019(a) (relating to the definition of "first tier coastal county" and "second tier coastal county"), Government Code.

Repealer: Section 25.0032(a) (relating to the definition of "first tier coastal county" and "second tier coastal county"), Government Code.

Repealer: Section 26.009(a) (relating to the definition of "first tier coastal county" and "second tier coastal county"), Government Code.

SECTION 18. Effective date: upon passage or September 1, 2019.