

- SUBJECT:** Criminal jurisdiction of justice courts
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Place, Talton, Farrar, Greenberg, Nixon, Pickett, Pitts, Solis
0 nays
1 absent — Hudson
- WITNESSES:** For — Cletis Millsap, Justice of the Peace, Hopkins County; Bill Lewis, Mothers Against Drunk Driving
Against — None
- BACKGROUND:** Texas Constitution Art. 5, sec. 19, gives justice courts original jurisdiction over criminal cases punishable by fine only. However, Code of Criminal Procedure art. 4.11 gives justice courts jurisdiction over only those criminal cases in which the maximum fine is \$500. According to Attorney General Opinion No. DM-277 (December 20, 1993), the \$500 limit on the jurisdiction of justice courts over fine-only offenses is unconstitutional.
- Justice courts are not authorized to impose any penalty other than a monetary fine, according to Attorney General Opinion No. DM-320 (February 6, 1995). The opinion was sought by the Texas Alcoholic Beverage Commission, which, in order to penalize Class C misdemeanor minor-in-possession offenses, wanted to require that the minor attend an alcohol awareness class. The attorney general's opinion stated that justice courts do not have jurisdiction to impose non-fine sanctions.
- DIGEST:** HB 1648 would amend Code of Criminal Procedure art. 4.11 to give justice courts original jurisdiction in all criminal cases punishable by fine only, without limitation of the amount of the fine. HB 1648 would also allow justice courts to impose non-fine sanctions that are rehabilitative or remedial in nature and do not involve confinement or imprisonment.

HB 1648 would also clarify that being fined in a justice court would not preclude a penalty being imposed for the same offense by an entity other than the court, such as the denial, suspension or revocation of a privilege.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

HB 1648 would put the Code of Criminal Procedure and the Constitution in harmony on justice court jurisdiction and allow the imposition of certain other non-fine penalties on defendants when such action is warranted. The Constitution originally had a \$200 limit on the jurisdiction of justice courts, but in 1985 that limitation was removed by amendment. Since the Constitution gives justice courts jurisdiction over all offenses punishable by fine only, without setting a limit on the amount of the fine, the \$500 limit in the code was held unconstitutional (Attorney General's Opinion No. DM-277).

The \$500 limit also should be removed because certain fine-only misdemeanors are punishable by fines higher than \$500. It would be wasteful of court time to move these fine-only punishments to a higher court just because the maximum fine could be over \$500.

For many Class C misdemeanors, alternative punishments such as alcohol awareness courses and similar instructions are mandated or allowed by the statutes that create the offense. These alternative punishments are often more effective than fines in ensuring that the severity of the crime does not escalate. However, current law would seem to bar justice court from imposing such alternative punishments. These offenses need not be moved to a higher court in order to carry out such non-fine punishments.

Art. 5, sec. 19, of the Constitution allows the Legislature to provide for greater jurisdiction for justice courts than is stated specifically, just as this bill proposes to do. The constitutional provision giving justice courts original jurisdiction over those offenses punishable by fine only would simply specify where the case should go first; it would not prohibit the justice courts from trying other cases.

**OPPONENTS
SAY:**

The particular alternative punishment that led to this bill (sending minors to alcohol awareness classes), while primarily rehabilitative, is closer to confinement than simply imposing a fine or suspending a license. At some point, a line should be drawn between rehabilitative measures and confinement. It may be unwise to give such broad authority to justices of the peace, who generally do not have formal legal training.