

SUBJECT: Barring separate motor-vehicle negligence actions against inmates and TDCJ

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 7 ayes — Bosse, Alvarado, Goodman, Hope, Nixon, Smithee, Zbranek
0 nays
1 present, not voting — Dutton
1 absent — Janek

WITNESSES: For — None
Against — None
On — Carl Reynolds, Texas Department of Criminal Justice

BACKGROUND: Under the Texas Tort Claims Act, chapter 101 of the Civil Practice and Remedies Code, the Texas Department of Criminal Justice (TDCJ) is liable for damage, injury, or death caused by the negligence of inmate or state jail defendants using motor vehicles under the supervision of TDCJ. The Tort Claims Act limits the total liability of the state for such actions to \$250,000 for each person, \$500,000 for each occurrence for personal injury or death, and \$100,000 for each occurrence for property damage.

DIGEST: HB 681 would bar a separate claim against TDCJ in the event of a judgment against or settlement with an inmate found responsible for property damage, personal injury, or death caused by the individual's negligence while using a TDCJ vehicle. It also would bar separate actions against inmates when a claimant had obtained a judgment or settlement in a claim against TDCJ for the same type of occurrence. HB 681 also would bar a plaintiff from naming a inmate as a co-defendant in actions commenced against the state.

HB 681 would take effect September 1, 1999, and apply only to causes of action that accrued on or after that date.

**SUPPORTERS
SAY:**

HB 681 is needed to prevent plaintiffs from collecting claims against TDCJ resulting from actions in which TDCJ did not participate and was not permitted to put on a defense. It would ensure a more orderly disposition of claims against the state for actions committed by inmates. The purpose of the bill is not to limit the rights of injured persons, who still could sue and recover damages. But the state should be made aware that such suits have been filed and also should be allowed to participate and to defend itself.

Under current law, it could be possible for a plaintiff to win a judgment against an inmate defendant and then seek to apply that judgment against the state even though TDCJ was never a party to the original action and was never allowed to put on evidence. As a practical matter, since an inmate may have no way to pay settlements or judgments, current law may obligate TDCJ to pay despite the fact that the agency was not involved in the case.

In addition, the bill would ensure that when legal action is brought against the state for the actions of an inmate, the state would remain in charge of the defense. This would prevent an inmate defendant from participating in a separate legal action in a way that could be contrary to the best interests of the state.

HB 681 would not create any procedural traps for pursuing claims. Any lawyer filing a claim against an inmate defendant should be fully aware of the requirements of the Tort Claims Act. Those who file lawsuits against inmate defendants to get judgments against the inmates first, then file against the state in order to collect such judgments, already are taking advantage of existing law.

**OPPONENTS
SAY:**

HB 681 might create a trap for an unwary plaintiff who pursued a claim against an inmate defendant only to find out that any subsequent claims against TDCJ were barred.