SUBJECT: Allowing trial courts to hear civil cases on high school and college campuses

COMMITTEE: Judicial Affairs — committee substitute recommended

VOTE: 7 ayes — Thompson, Capelo, Deshotel, Garcia, Hinojosa, Talton, and Uresti

0 nays

2 absent — Hartnett, Solis

WITNESSES: For — Judge Javier Alvarez; Judge Philip R. (Phil) Martinez; Judge William Moody; Judge Guy Herman, Judges of the Statutory Probate Courts of Texas; Frank R. Lopez, University of Texas at El Paso.

Against — None

On — Craig Pardue, Dallas County

BACKGROUND: Government Code, sec. 26.002(c) provides that county courts must hold court at the "county seat." Some courts of appeals have interpreted "county seat" to mean in the city in which county government and the county courthouse are based. According to the Texas Constitution, Art. 5, sec. 7, a district court is to "conduct its proceedings at the county seat" where the case is pending, "except as otherwise provided by law." Most statutory county and statutory probate courts are not limited as to where they conduct business.

DIGEST: HB 62 would amend Government Code, secs. 24.012, 25.0019, 25.0033, and 26.002 to permit district, county, statutory county, and statutory probate courts to hear civil cases at public and private colleges, universities, and high schools in the county in which the case was filed. Counties would not be required to pay any additional costs associated with a case being tried at the alternative location.

The bill would take effect September 1, 2001, and apply only to cases filed after that date.

SUPPORTERS SAY:

HB 62 would grant clear authority for courts to educate students about law and the judicial system by exposing them to real life legal proceedings. Trials held on a high school or college or university campus would be a positive educational experience, as well as a way to demystify the legal system and increase interest in the legal profession. The University of Texas at El Paso already uses on-campus trials as part of its curriculum. Under the current interpretation of "county seat," however, other universities are unable to host on-campus trials. For example, although Southern Methodist University is located in Dallas County, it is not located in the City of Dallas, the county seat, but in University Park. While Texas A&M University is located in Brazos County, it is not located in the county seat of Bryan, but in College Station.

Since this bill would apply only to civil cases, the security concerns should be minimal. While family and juvenile cases technically are civil matters, judges could refuse to hear these cases at alternative locations. They would have the discretion not have to risk the litigants', the public's, and their own safety by moving a case where security would be an issue.

Furthermore, because the bill specifies that the county would not be required to pay additional costs associated with locating the trial out of the courthouse, courts would not move a trial unless it would not be a financial burden to the county. Nor would the bill require any university, college or high school to host a trial, so none of these entities will be forced to incur any expenses they do not wish to incur. This also would serve as a built-in limitation on the number of times a judge could move trials away from the courthouse.

OPPONENTS SAY:

Even though this bill would apply only to civil cases, security for the judges could be a problem in holding trials away from the courthouse. County courthouses have metal detectors, x-ray machines, multiple bailiffs, and law enforcement officials on-site. Even when there were no obvious security concerns about the case actually being tried at an alternative site, a deranged litigant from a previous case could use the more lax security at the alternative site as an opportunity to assault the judge.

HB 62 would not limit how many times a judge could move cases. There is a possibility that in election years judges would seek to try cases at local

high schools or higher education institutions as a way to increase their visibility with the public and garner political support. Further, if a judge desired to move a case and the hosting school did not pay the expenses, the parties in the case being tried might feel pressured to pay the costs.

If a public high school or higher education institution paid for the expense of holding court at their campuses, the taxpayers ultimately would paying twice for hearings in the affected courts. According to the fiscal note, the universities, colleges, and high schools that host trials might incur security, utility, and maintenance costs, as well as the costs of relocating normal educational functions during the trial.

NOTES:

The committee substitute added provisions that would: 1) prevent the county from being required to pay the costs of trying cases at an alternative location; 2) include private universities and colleges as possible alternative locations; 3) include public and private high schools as possible alternative locations; and 4) expand the types of courts that could use alternative sites to include statutory county and statutory probate courts.

The companion bill, SB 142 by Shapleigh, was referred to the Senate Jurisprudence Committee on January 11.