

**SUBJECT:** Authority of district attorney in Washington and Burleson counties

**COMMITTEE:** Judicial Affairs — favorable, without amendment

**VOTE:** 7 ayes — Hartnett, T. Smith, Alonzo, Corte, Hughes, Rodriguez, Solis  
0 nays  
2 absent — Telford, Wilson

**WITNESSES:** For — Renee Ann Mueller  
Against — None

**BACKGROUND:** Government Code, sec. 43.108 allows the voters of Washington and Burleson counties to elect a district attorney for the 21st Judicial District to represent the state in that district court only in those counties.  
  
The 21st judicial district and the 335th judicial district are coterminous in Bastrop, Burleson, Lee, and Washington counties.

**DIGEST:** HB 2341 would authorize the district attorney elected by the voters of Washington and Burleson counties to perform the duties of a district attorney before the 335th District Court in those counties.  
  
The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS SAY:** HB 2341 would codify case law and make it clear that the district attorney from the 21st judicial district had authority to prosecute criminal cases in the 335th district court. Currently, the district attorney elected from Washington and Burleson counties for the 21st judicial district does not have explicit statutory jurisdiction to prosecute cases for the 335th district court, even though the jurisdictions of the two courts overlap.

Although case law authorizes the district attorney from the 21st judicial district to prosecute in the 335th district court, it would be simpler and more efficient to have this authority in the statutes so that it would not have to be proved each time the district attorney exercised this authority. Currently, all criminal charges from the two counties are filed in the 21st district court to avoid this confusion about the authority of prosecutors.

Because of the current confusion about who would prosecute cases, the district judge in the 335th district does not impanel grand juries even though the authority exists. This leaves only one grand jury — meeting in the 21st judicial district — to serve both courts. As the population in the area grows, it would be better to spread the workload between two grand juries, one for each judicial district. This would allow these counties more flexibility to handle criminal cases and avoid overtaxing the grand juries from the 21st judicial district.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The Judicial Affairs Committee originally recommended sending this bill to Local and Consent Calendars Committee.