

SUBJECT: Requiring study on decriminalizing certain Class C misdemeanors

COMMITTEE: Judiciary — committee substitute recommended

VOTE: 5 ayes — Hartnett, Homer, R. Cook, Gonzales, Hughes

0 nays

4 absent — Hopson, Alonzo, Goolsby, Krusee

WITNESSES: For — Russell S. Smith

Against — None

On — Marc Levin, Texas Public Policy Foundation; Judge Kevin R. Madison, Texas Municipal Courts Association; Carl Reynolds, Office of Court Administration; Jim Lehman

DIGEST: CSHB 371 would require the Office of Court Administration (OCA) to study the feasibility, efficiency, and potential savings of converting certain class C misdemeanors to civil infractions.

OCA would have to study which class C misdemeanors would be appropriate to convert to civil infractions and which civil collections procedures involving judicial oversight could be used to collect fines, court costs, and fees. OCA would have to consult with county and municipal court judges, justices of the peace, the Texas District and County Attorneys Association, the Department of Public Safety, and the Texas Parks and Wildlife Department.

The bill would take effect September 1, 2007, and OCA would have to file its report and recommendations with the governor and legislative leaders by October 1, 2008.

SUPPORTERS SAY: Texas should explore the potential of decriminalizing certain class C misdemeanors, and CSHB 371 would ensure that lawmakers had relevant information on this topic before the next legislative session. At least a few other states and some local governments have converted low-level misdemeanors to civil infractions, and the idea is being discussed in

judicial circles. CSHB 371 would authorize a study only and ensure that Texas policymakers were up to speed on the issue. Any decision about changing Texas law regarding low-level class C misdemeanors would have to be made by the Legislature.

Having OCA study this idea would be the best way for legislators to explore whether it would be good for Texas. Converting selected misdemeanors to civil infractions could be more efficient than the current system using criminal procedures to handle even minor infractions. A change could save time and money and cut down on bureaucracy. It would be especially attractive for low-level traffic violations. Other states have seen an increase in revenue collections when some low-level misdemeanors were decriminalized. The state could be selective and leave offenses involving alcohol, wildlife, the environment, and serious traffic offenses as criminal violations.

A state agency with expertise in judicial matters would be the best entity to study this idea, and OCA's staff has the knowledge, resources, and expertise to do so. CSHB 371 would require the study to include certain information, such as which type of misdemeanors might be appropriate to convert to civil infractions, so that lawmakers would be fully informed. The bill would require that OCA work with other stakeholders to ensure that those involved had a voice in the study. An interim legislative study, which often focuses on Texas laws, or a less formal investigation might not give lawmakers all the technical information they would need to analyze fully the idea.

The study in CSHB 371 would mesh with OCA's current duties, including reviewing court efficiency and studying judicial activities, and the agency easily could work the study into its interim duties. This is reflected in the fiscal note, which says that CSHB 371 would have no significant fiscal implication to the state.

**OPPONENTS
SAY:**

The topic of converting class C misdemeanors to civil infractions might be best approached initially through an interim legislative study or by asking OCA for preliminary information, rather than by a full-blown agency feasibility study. While the fiscal note says the bill would have no significant fiscal impact, the type of assessment described in CSHB 371 could require additional resources.

NOTES:

The committee substitute made OCA's consultation with judges, the Department of Public Safety, Texas Parks and Wildlife, and the Texas District and County Attorneys Association mandatory rather than permissive.