

SUBJECT: Granting certain statutory county courts jurisdiction over state jail felonies

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Hunter, Hughes, Branch, Hartnett, Jackson, Leibowitz, Madden, Martinez, Woolley

0 nays

2 absent — Alonzo, Lewis

WITNESSES: For — None

Against — None

On — Elisabeth Earle, Texas Center for Judiciary Courts at Law; Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Government Code, sec. 25.0003 generally provides statutory county courts, or county courts at law, with concurrent jurisdiction over all matters under the jurisdiction of constitutional county courts. The actual jurisdiction of each county court varies according to the statute under which the court was created. Some statutory courts hear only probate matters, while others hear a wide range of civil and criminal cases. Statutory county courts do not have jurisdiction over felony criminal offenses, including state jail felonies, or misdemeanors involving official misconduct, both of which fall under the original jurisdiction of district courts.

DIGEST: HB 692 would grant concurrent jurisdiction over state jail felonies to statutory county courts with original or concurrent jurisdiction over any type of misdemeanor case. The statutory county court would share concurrent jurisdiction with the district court.

HB 692 specifically would provide in the Government Code that the bill's provision granting the statutory county court concurrent jurisdiction over state jail felonies would prevail over any other law regarding the jurisdiction of statutory county courts.

The bill would apply only to criminal actions filed on or after its September 1, 2009, effective date.

**SUPPORTERS
SAY:**

HB 692 would reduce case backlogs in district courts' dockets, especially district courts with jurisdiction over multiple counties, and provide for faster resolution of criminal cases in general. State jail felonies make up a significant portion of district courts' dockets, and the amount of time spent hearing these cases takes time away from consideration of the more serious first- to third-degree felony offenses. Statutory county courts that hear misdemeanor cases could readily handle state jail felonies, because the penalty range of state jail felonies has more in common with the penalty range of class A and class B misdemeanors than first- to third-degree felonies. For example, a state jail felony carries a possible state jail sentence of 180 days to two years, similar to a class A misdemeanor's range of up to one year in county jail. By comparison, a third-degree felony carries a minimum of two years and up to 10 years in prison.

Concerns that HB 692 would clog statutory county court dockets and increase the prosecutorial burdens of county attorneys would be addressed by an amendment by Rep. Solomons. The amendment would require a district court to solicit the advice of county judges, county commissioners, defense attorneys, and district and county attorneys on the issue of the number of cases that the district court would transfer to the statutory county court or courts. This amendment would help ensure an orderly transfer process by allowing input from stakeholders on the number of cases a statutory county court could reasonably handle.

**OPPONENTS
SAY:**

HB 692 would not fundamentally address the problem of clogged dockets, because it simply would shift the current backlog of state jail felonies from district courts to statutory county courts. Many statutory county courts already have dockets full with misdemeanor cases, family law, probate and civil cases, and adding state jail felonies would increase considerably their caseloads.

The bill also could create a prosecution issue where one prosecutor handling a state jail felony case in a district court would have to transfer the case to a county attorney in a statutory county court. Although county attorneys could certainly handle state felony cases, transferring a case from one prosecutor to another would cause delays as the new prosecutor became acquainted with the case.

OTHER
OPPONENTS
SAY:

HB 692 should not be mandatory for all statutory county courts that hear misdemeanor cases. The bill could be improved by adding a discretionary or “opt-out” provision that would allow statutory county courts to exercise discretion in whether to hear state jail felony cases, or how many. This would give statutory county courts greater flexibility in managing caseloads.

NOTES:

Rep. Solomons plans to offer a floor amendment that would require a district court to solicit the advice of county commissioners, county judges, defense attorneys, and district and county attorneys before the district court could transfer a case or cases to statutory county courts. The advice would be limited to the sole question of the number of cases to be transferred to statutory county courts. The parties would not be allowed to have input on specific cases. The amendment would also provide that the parties could meet only at the beginning of each fiscal year.