

SUBJECT: Prohibiting suspension of Criminal Procedure, Penal codes during disaster

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

WITNESSES: For — (*Registered, but did not testify:* Melissa Shannon, Bexar County Commissioners Court; Daniel Collins, El Paso County; Thamara Narvaez, Harris County Commissioners Court; Bill Kelly, Mayor's Office, City of Houston; Tom Glass, Texas Constitutional Enforcement; Thomas Parkinson)

Against — None

BACKGROUND: Government Code sec. 418.012 gives the governor authority to issue executive orders, proclamations, and regulations under the Texas Disaster Act. Executive orders, proclamations, and regulations have the force and effect of law.

Some have suggested that the governor's authority to suspend the provisions of any regulatory statute during a declared disaster was used in response to the COVID-19 pandemic to suspend certain rights and procedures outlined in the Code of Criminal Procedure and Penal Code.

DIGEST: HB 3016 would prohibit an executive order, proclamation, or regulation issued by the governor under the Texas Disaster Act from suspending a provision in the Code of Criminal Procedure or Penal Code.

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, 2021. The bill would apply only to a declaration of a state of disaster issued or renewed on or after the bill's effective date.