

BILL ANALYSIS

Senate Research Center

H.B. 1461
By: Dunman (Harris)
Jurisprudence
5/11/1999
Engrossed

DIGEST

Currently, the Texas Constitution provides that the Supreme Court of Texas (supreme court) has responsibility for the efficient administration of the judicial branch and is required to promulgate rules of administration, as well as rules of civil procedure for all courts, not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts. Furthermore, the supreme court and the Texas Court of Criminal Appeals (court of criminal appeals) have express authority to promulgate other rules as may be prescribed by law or the constitution that may be delegated by the legislature and subject to limitations and procedures that may be provided by law. There is no prescription as to when the supreme court or the court of criminal appeals must promulgate rules, therefore they can be, and sometimes are, promulgated at a time which escapes review by the legislature. H.B. 1461 would establish conditions regarding oversight of and public access to the supreme court and the court of criminal appeals.

PURPOSE

As proposed, H.B. 1461 establishes conditions regarding oversight of and public access to the supreme court and the court of criminal appeals.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires this Act to be known as the Judicial Improvements and Access to Justice Act.

SECTION 2. Amends Chapter 22, Government Code, by adding Subchapter E, as follows:

SUBCHAPTER E. GENERAL RULEMAKING PROVISIONS

Sec. 22.351. APPLICATION. Provides that this section applies only to the supreme court and the court of criminal appeals. Prohibits a court from issuing a rule or an amendment to a rule (amendment) under certain sections unless the court meets the requirements of this subchapter.

Sec. 22.352. SUBMISSION OF RULES TO LEGISLATURE. Requires a court to transmit to the legislature a copy of a proposed rule or an amendment to an existing rule not later than the 30th day after the date of commencement of each regular legislative session. Prohibits a rule or an amendment transmitted to the legislature from taking effect before a certain date.

Sec. 22.353. INTERIM RULEMAKING POWER. Authorizes a court to adopt a rule or amendment to a rule without following the required procedures if the court finds that the rule or amendment is necessary for the proper administration of justice. Requires the court to publish an opinion stating the specific reason that the court is unable to follow the required rulemaking procedures. Requires the court to transmit a copy of an adopted rule or amendment to a rule to the legislature.

Sec. 22.354. OPEN MEETINGS; PUBLIC INFORMATION. Provides that a committee, task force, or other group appointed by a court to discuss, examine, or recommend a rule or amendment to a rule covered by this subchapter is subject to the open meetings law, Chapter 551, and the public information law, Chapter 552.

Sec. 22.355. FISCAL NOTE. Requires the court to prepare a fiscal note for a rule or amendment transmitted to the legislature outlining the fiscal implications and probable cost of the measure. Requires the statement to describe in detail the probable economic effect of the rule or amendment on users of the civil and criminal justice systems for each year of the first five years the rule or amendment will be in effect. Authorizes the statement to include other information at the court's discretion. Requires the comptroller to assist in the preparation of the economic impact statement, at the courts request.

Sec. 22.356. JUDICIAL INPUT. Requires the Office of Court Administration (OCA), by a certain date, to develop and compile an opinion poll on the rule or amendment of certain judges. Requires the OCA to report the results of the opinion poll by a certain date.

SECTION 3. Amends Section 22.003(a), Government Code, to make conforming changes.

SECTION 4. Amends Sections 22.004(a), (b), and (c), Government Code, to make conforming changes.

SECTION 5. Amends Section 22.108(b), Government Code, to make conforming changes. Deletes text regarding rules adopted under this section.

SECTION 6. Amends Sections 22.109(a) and (b), Government Code, to make conforming changes. Deletes text regarding rules adopted under this section.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.