

By: Gonzales

H.B. No. 4068

A BILL TO BE ENTITLED

AN ACT

relating to the conduct of judicial proceedings and transaction of other essential judicial functions in the event of a disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.0035 to read as follows:

Sec. 22.0035. SUSPENSION OF CERTAIN PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a) In this section, "disaster" has the meaning assigned by Section 418.004.

(b) Notwithstanding any other statute and to the extent permitted by the Texas and United States Constitutions, the supreme court may exercise the court's inherent authority by rule or order or on a case-by-case basis, with or without the consent of the parties, to temporarily suspend the provisions of any order, rule, or statute prescribing procedures for the conduct of any court proceeding affected by a disaster for the period the proceeding is affected. This authority includes the authority to:

(1) provide an abatement or stay;

(2) toll or modify a filing or service deadline;

(3) provide for a hearing or trial to occur at a location other than the municipality or county in which the proceeding was commenced;

(4) provide for a court of appeals to accept a filing, hear a case, or transact business in a remote courthouse; and

1 (5) provide alternate notice requirements.

2 (c) If a disaster prevents the supreme court from acting
3 under Subsection (b), the chief justice of the supreme court may act
4 on behalf of the supreme court under that subsection.

5 (d) If a disaster prevents the chief justice from acting
6 under Subsection (c), the court of criminal appeals may act on
7 behalf of the supreme court under Subsection (b).

8 (e) If a disaster prevents the court of criminal appeals
9 from acting under Subsection (d), the presiding judge of the court
10 of criminal appeals may act on behalf of the supreme court under
11 Subsection (b).

12 SECTION 2. Section 74.093(c), Government Code, is amended
13 to read as follows:

14 (c) The rules may provide for:

15 (1) the selection and authority of a presiding judge
16 of the courts giving preference to a specified class of cases, such
17 as civil, criminal, juvenile, or family law cases; ~~and~~

18 (2) a coordinated response to ensure the transaction
19 of essential judicial functions in the event of a disaster, as
20 defined by Section 418.004; and

21 (3) any other matter necessary to carry out this
22 chapter or to improve the administration and management of the
23 court system and its auxiliary services.

24 SECTION 3. Section 418.002, Government Code, is amended to
25 read as follows:

26 Sec. 418.002. PURPOSES. The purposes of this chapter are
27 to:

1 (1) reduce vulnerability of people and communities of
2 this state to damage, injury, and loss of life and property
3 resulting from natural or man-made catastrophes, riots, or hostile
4 military or paramilitary action;

5 (2) prepare for prompt and efficient rescue, care, and
6 treatment of persons victimized or threatened by disaster;

7 (3) provide a setting conducive to the rapid and
8 orderly restoration and rehabilitation of persons and property
9 affected by disasters;

10 (4) clarify and strengthen the roles of the governor,
11 state agencies, the judicial branch, and local governments in
12 prevention of, preparation for, response to, and recovery from
13 disasters;

14 (5) authorize and provide for cooperation in disaster
15 mitigation, preparedness, response, and recovery;

16 (6) authorize and provide for coordination of
17 activities relating to disaster mitigation, preparedness,
18 response, and recovery by agencies and officers of this state, and
19 similar state-local, interstate, federal-state, and foreign
20 activities in which the state and its political subdivisions may
21 participate;

22 (7) provide an emergency management system embodying
23 all aspects of pre-disaster preparedness and post-disaster response;

24 (8) assist in mitigation of disasters caused or
25 aggravated by inadequate planning for and regulation of public and
26 private facilities and land use; and

27 (9) provide the authority and mechanism to respond to

1 an energy emergency.

2 SECTION 4. Section 418.042(b), Government Code, is amended
3 to read as follows:

4 (b) In preparing and revising the state emergency
5 management plan, the division shall seek the advice and assistance
6 of local government, the judicial branch, business, labor,
7 industry, agriculture, civic organizations, volunteer
8 organizations, and community leaders.

9 SECTION 5. This Act takes effect September 1, 2009.