

BILL ANALYSIS

Senate Research Center

H.B. 1451
By: Dunnam (Shapleigh)
Jurisprudence
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Engrossed

DIGEST AND PURPOSE

Under the Texas Constitution, 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 (appeals court) have the express authority to promulgate other rules as may be prescribed by law, the constitution, or legislative delegation. Currently, the supreme court or the criminal appeals court may promulgate rules at any time; therefore, rules may be promulgated at a time which escapes legislative review. H.B. 1451 provides procedures for the supreme court and criminal appeals court to follow when exercising rulemaking authority, including notification, open meetings, public information, and fiscal note requirements for each proposed rule or amendment to a rule.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the supreme court and to the court of criminal appeals in SECTION 3 (Section 22.353, Government Code) in this bill.

SECTION BY SECTION ANALYSIS

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

SECTION 2. Amends Chapter 22A, Government Code, by adding Section 22.0041, as follows:

Sec. 22.0041. RULES REGARDING PRACTICE OF LAW. Prohibits rules of the supreme court adopted on or after the effective date of this section regarding procedures for the practice of law in this state by an attorney licensed in another jurisdiction from taking effect until the earlier of certain date.

SECTION 3. Amends Chapter 22, Government Code, by adding Subchapter E, as follows:

SUBCHAPTER E. GENERAL RULEMAKING PROVISIONS

Sec. 22.351. APPLICATION. Provides that this subchapter 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 under Section 22.003, 22.004, 22.108, or 22.109 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 to a rule transmitted to the legislature under this section from taking effect earlier than the 90th day after the date of adjournment of the legislature for the session in which the rule or amendment is transmitted.

Sec. 22.353. INTERIM RULEMAKING POWER. Authorizes a court to adopt a rule or an amendment to a rule without following the procedures required by this subchapter if the court finds that the rule or the amendment is necessary for the proper administration of justice. Requires the court, if the court adopts a rule or an amendment to a rule under this section, to publish an opinion stating the specific reasons that the court is unable to follow the rulemaking procedures required by this subchapter. Requires the court to transmit a copy of a rule or an amendment to a rule adopted under this section 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 an 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 an amendment to a rule transmitted to the legislature under this subchapter outlining the fiscal implications and probable economic effect of the rule or the amendment to a rule on users of the civil and criminal justice systems for each year of the first five years the rule or the amendment to a rule will be in effect. Authorizes the statement to include other information at the court's discretion.

Sec. 22.356. JUDICIAL INPUT. Requires the Office of Court Administration (office), not later than the 15th day after the date a proposed rule or an amendment to an existing rule is transmitted to the legislature under this subchapter, to develop and compile an opinion poll on the rule or the amendment to a rule of appeals court judges, district judges, county judges, statutory county court judges, and statutory probate court judges. Requires the office to report the results of the opinion poll not later than the 75th day after the date of commencement of the regular legislative session.

SECTION 4. Amends Section 22.003(a), Government Code, to make a nonsubstantive change.

SECTION 5. Amends Section 22.004(a), (b), and (c), Government Code, to authorize the supreme court to promulgate a specific rule or rules of civil procedure, or an amendment or amendments to a specific rule or rules 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. Deletes text regarding when certain rules become effective. Provides that the rules and amendments to rules proposed by the supreme court take effect as provided by Subchapter E and remain in effect unless and until disapproved by the legislature. Deletes text the phrase "so that the supreme court has full rulemaking power in civil actions."

SECTION 6. Amends Section 22.108(b), Government Code, to make conforming changes.

SECTION 7. Amends Section 22.109(a) and (b), Government Code, to delete text requiring the secretary of state to report the rules or amendments to rules to each elected member of the legislature.

SECTION 8. Amends Chapter 81B, Government Code, by adding Section 81.0241, as follows:

Sec. 81.0241. RULES REGARDING PRACTICE OF LAW. Authorizes rules of the state bar adopted on or after the effective date of this section regarding procedures for the practice of law in this state by an attorney licensed in another jurisdiction to take effect only as provided by Section 22.0041 for similar rules adopted by the supreme court.

SECTION 9. Effective date: September 1, 2001.