

# Continuing the operation of the judiciary during a disaster

HB 4068 by Gonzales (Hinojosa)

[Return to  
Table of  
Contents](#)

DIGEST: HB 4068 would have authorized the Texas Supreme Court to suspend temporarily, without the consent of the parties, procedures for the conduct of any court proceeding affected by a disaster. By rule or order, or on a case-by-case basis, the Supreme Court would have been able to:

- provide abatements and stays;
- suspend or modify filing and service deadlines;
- provide for hearings or trials at locations other than the municipality or county where the proceeding was commenced;
- provide for courts of appeal to accept filings and hear arguments in remote courthouses; and
- provide alternative notice requirements.

The bill also would have allowed district and statutory county court judges, by majority vote, to adopt rules providing a coordinated response for the continued operation of essential judicial functions.

The bill would have amended the Texas Disaster Act to include a provision that one of the act's purposes would be to clarify and strengthen the role of the judicial branch of state government.

If a disaster prevented the Supreme Court from acting in response, HB 4068 would have authorized the chief justice of the Supreme Court to act on the court's behalf. In the event that the chief justice could not act on the Supreme Court's behalf, the Court of Criminal Appeals could have acted on behalf of the Supreme Court. If a disaster prevented the Court of Criminal Appeals from acting, the bill would have authorized the presiding judge of the Court of Criminal Appeals to act on behalf of the Supreme Court.

## GOVERNOR'S REASON FOR VETO:

“House Bill No. 4068 seeks to provide authority to the Texas Supreme Court and Texas Court of Criminal Appeals when there is a disaster in the state. Another bill passed during the 81st Legislature Regular Session, House Bill No. 1861, also provides authority over the judicial branch in Texas to the Texas Supreme Court and the Texas Court of Criminal Appeals in the event of a disaster. House Bill No. 1861 and House Bill No. 4068 contain conflicting provisions, and enacting both would lead to time-consuming litigation to resolve these conflicts. In the event that a disaster affects operations of the judicial branch, returning operations to their regular state as quickly as possible is the highest priority. Because of these conflicts and because I believe House Bill No. 1861 provides a better framework for the judicial branch during a state of disaster, I am vetoing House Bill No. 4068.”

RESPONSE: **Rep. Veronica Gonzales**, the bill’s author, said: “While I am pleased to know that HB 1861, of which I am a joint author, was signed into law by the Governor, HB 4068 would have gone a step further in protecting our judicial system in the event of a disaster.

“Unlike HB 1861, this bill would not have required a disaster declaration by the governor in order to implement provisions relating to court proceedings affected by a disaster. This distinction is of particular importance because it allowed for this emergency protocol to exist in the event of a localized disaster not affecting an area large enough to merit disaster declaration.

“For example, a bomb threat or a fire at a courthouse is a disaster that would necessitate emergency provisions, however, would not be likely to result in a disaster declaration by the governor. Under the circumstances, HB 4068 would have allowed the supreme court the ability to implement emergency action, upon evaluation on a case-by-case basis.”

**Sen. Juan Hinojosa**, the Senate sponsor, had no comment on the veto.

NOTES: The HRO analysis of HB 4068 appeared in Part Three of the May 2 *Daily Floor Report*. The HRO analysis of HB 1861 by Eiland appeared in Part One of the April 24 *Daily Floor Report*.