

SUBJECT: Inmate appeal of TDCJ decision about property destruction

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Hightower, Gray, Allen, Culberson, Farrar, Longoria, Pitts

0 nays

2 absent — Serna, Telford

SENATE VOTE: On final passage, March 28 — by voice vote

WITNESSES: None

BACKGROUND: Inmates in the institutional division of the Texas Department of Criminal Justice (TDCJ) are liable for their intentional damage to state property. Damages may be awarded to the institutional division only after a hearing under a procedures established by the institutional division and cannot exceed the value of the damaged property. If an inmate is held liable, TDCJ can seize the contents of an inmate's trust funds. Inmates can appeal a ruling by filing an appeal in district court. Inmates who fail to appeal a TDCJ hearing decision within 60 days are barred from appealing.

DIGEST: SB 693 would require TDCJ institutional division inmates to meet a new requirement to exhaust all administrative remedies before appealing a final decision of a hearing to adjudicate claims for property damage by an inmate to TDCJ property. To appeal a ruling an inmate would have to petition for judicial review in district court. The district court would have to follow Administrative Procedure Act rules for judicial review of contested cases. Petitions seeking judicial review would have to be filed within 60 days of exhausting administrative remedies or the inmate would be jurisdictionally barred from proceeding.

SB 693 would take effect September 1, 1995.

SUPPORTERS SAY: SB 693 would ensure that inmates exhaust TDCJ's administrative remedies before appealing to the courts a decision about the destruction of property. An internal TDCJ hearing is the first step to investigate an allegation that

an inmate has destroyed state property. These hearings are similar to disciplinary hearings and allow the inmate to present a defense and call witnesses and can involve a free-world advocate for the inmate. SB 693 would require an inmate who wants to contest a hearing decision to next go through TDCJ's administrative remedies process, which is a court-certified three-step inmate grievance process that is fair to all parties. Inmates would then be able to petition for judicial review once the administrative remedies are exhausted.

This procedure would ensure that the courts are available to the inmates but will not be clogged with claims that could have been resolved outside of a courtroom. The 60-day deadline to file a petition to seek judicial review is the same as the current deadline to appeal a decision and would allow ample time for an inmate to proceed.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The House passed a provision similar to SB 693 on April 24 in HB 2162 by Hightower. The provision in HB 2162 would extend the current liability for property damage for inmates in the institutional division to persons in all facilities operated by or for TDCJ, require inmates to exhaust administrative remedies before petitioning for judicial review of a TDCJ hearing decision and give inmates 30 days after the exhaustion of administrative remedies to seek judicial review.