

SUBJECT: Requiring disclosure of contact between judge and political party officer

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — J. Jones, Denny, Hodge, Madden, Truitt
0 nays
4 absent — Danburg, Gallego, Sadler, Wilson

WITNESSES: For — *Registered but did not testify:* James Gaston, Texas Democratic Party; Suzy Woodford, Common Cause of Texas

Against — (*On original version:*) Don Hensz; Genny Hensz; *Registered but did not testify:* Marie Davis; Connie Granberg

BACKGROUND: Penal Code, chapter 36 governs offenses related to bribery, coercion of a public servant, improper influence, obstruction or retaliation, and other instances of corrupt influence.

DIGEST: CSHB 180 would require disclosure of certain contacts between a judge and an officer of a political party. In regard to a judicial proceeding pending before a judge that took place outside of an official proceeding conducted by the judge, the judge would have to disclose each contact with the following officers of a political party:

- ! a member of the state executive committee;
- ! a county chair; and
- ! a precinct chair.

Such a disclosure would have to:

- ! describe the nature and content of the contact;
- ! be sent to each party to the proceeding; and
- ! be filed and available for public inspection in the records of the proceeding.

When making a disclosure of a contact described above, the judge would have to issue a written notice informing the political party officer who had a contact with the judge that the contact was improper and could constitute an offense under Penal Code, chapter 36.

If the political party officer made a subsequent contact with the judge on the same matter after receiving notice from the judge that an initial contact was improper, the subsequent contact would constitute a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 1180 is necessary to ensure that all parties know that the judicial system operates in an atmosphere of integrity and independence and that contact between a political party leader and a judge regarding a pending case is improper.

For instance, a particular political party could target a judge because the judge's rulings could be seen as counter to the party's philosophy. Judges in Texas should be free from any political pressure, regardless of where it comes from. The law should make it clear that if a political party leader makes contact with a judge regarding a pending case, that contact is improper and illegal, and further contact could result in a penalty.

**OPPONENTS
SAY:**

CSHB 1180 is unnecessary. The Texas judiciary already has rules that govern *ex parte* communication in the Code of Judicial Conduct, adopted and promulgated by the Texas Supreme Court. Under these rules, judges may not initiate or consider *ex parte* communications concerning pending or impending proceedings.

NOTES:

The committee substitute modified the original bill by requiring a judge, rather than a political party officer, to disclose the improper contact and removed the penalty for failure to report a disclosure. It added the provision requiring the judge to send notice to the political party officer that the contact was improper and might constitute a violation of the Penal Code.