

Amend Committee Amendment No. 1 to **HB 969** (Senate committee printing) as follows:

(1) In SECTION 1 of the amendment, in amended Subsection (a), Section 1, Article 39.14, Code of Criminal Procedure (page 1, line 16), strike "the defendant or".

(2) In SECTION 1 of the amendment, in amended Subsection (a), Section 1, Article 39.14, Code of Criminal Procedure (page 1, line 17), strike "or" and substitute "and".

(3) In SECTION 1 of the amendment, in proposed Subdivision (7), Subsection (a), Section 1, Article 39.14, Code of Criminal Procedure (page 1, line 38), strike "real" and substitute "physical or documentary".

(4) In SECTION 1 of the amendment, strike proposed Subdivision (8), Subsection (a), Section 1, Article 39.14, Code of Criminal Procedure (page 1, lines 42-45), and substitute the following:

(8) the names and addresses of the witnesses called to present evidence under Rules 702, 703, and 705, Texas Rules of Evidence, and the names of all other witnesses the attorney representing the state intends to call at the trial;

(5) In SECTION 1 of the amendment, strike amended Subsection (b), Section 1, Article 39.14, Code of Criminal Procedure (page 2, lines 7-22), and substitute the following:

(b) If the defendant gives notice of a defense under Section 2(b), the attorney representing the state shall disclose as soon as practicable to the defendant's counsel the names of the witnesses of whom the state has knowledge and whom the state intends to use to rebut the defense or the testimony of any of the defendant's witnesses called to establish that defense ~~[On motion of a party and on notice to the other parties, the court in which an action is pending may order one or more of the other parties to disclose to the party making the motion the name and address of each person the other party may use at trial to present evidence under Rules 702, 703, and 705, Texas Rules of Evidence. The court shall specify in the order the time and manner in which the other party must make the disclosure to the moving party, but in specifying the time in which the other party shall make disclosure the court shall require the~~

~~other party to make the disclosure not later than the 20th day before the date the trial begins].~~

(6) In SECTION 1 of the amendment, in proposed Subsection (a), Section 2, Article 39.14, Code of Criminal Procedure, between "Section 1" and "from" (page 2, lines 28 and 29), insert "of this article".

(7) In SECTION 1 of the amendment, in proposed Subsection (a), Section 2, Article 39.14, Code of Criminal Procedure (page 2, line 31), strike "or" and substitute "and".

(8) In SECTION 1 of the amendment, strike proposed Subdivision (1), Subsection (a), Section 2, Article 39.14, Code of Criminal Procedure (page 2, lines 33-35), and substitute the following:

(1) any written or recorded statement by a witness, other than the defendant, that is related to the offense charged, if the defendant intends to call the witness at the trial;

(9) In SECTION 1 of the amendment, in proposed Subdivision (2), Subsection (a), Section 2, Article 39.14, Code of Criminal Procedure, between "trial" and "if" (page 2, lines 38 and 39), insert a comma.

(10) In SECTION 1 of the amendment, in proposed Subdivision (3), Subsection (a), Section 2, Article 39.14, Code of Criminal Procedure (page 2, line 40), strike "real" and substitute "physical or documentary".

(11) In SECTION 1 of the amendment, strike proposed Subdivision (4), Subsection (a), Section 2, Article 39.14, Code of Criminal Procedure (page 2, lines 43-46), and substitute the following:

(4) the names and addresses of the witnesses called to present evidence under Rules 702, 703, and 705, Texas Rules of Evidence, and the names of all other witnesses the defendant intends to call at the trial; and

(12) In SECTION 1 of the amendment, in proposed Subsection (b), Section 2, Article 39.14, Code of Criminal Procedure, between "the trial begins" and the period (page 2, line 54), insert "or as soon as practicable after the date the defendant receives a disclosure under Section 1 of this article to which the defense is

responsive, whichever is later".

(13) In SECTION 1 of the amendment, in proposed Subsection (b), Section 2, Article 39.14, Code of Criminal Procedure (page 2, line 57), strike "and addresses".

(14) In SECTION 1 of the amendment, in proposed Subsection (c), Section 2, Article 39.14, Code of Criminal Procedure (page 2, lines 64 and 65), strike "law enforcement or prosecuting agency" and substitute "law enforcement agency or prosecutor's office".

(15) In SECTION 1 of the amendment, strike proposed Subdivision (2), Subsection (a), Section 3, Article 39.14, Code of Criminal Procedure (page 3, lines 4-8), and substitute the following:

(2) a work product other than an offense report by law enforcement personnel, including a report, memorandum, or other internal document of the attorney representing the state, the attorney representing the defendant, or an investigator or other agent of the attorney representing the state or the attorney representing the defendant that is made in connection with the investigation, prosecution, or defense of the case; or

(16) In SECTION 1 of the amendment, in proposed Subdivision (3), Subsection (a), Section 3, Article 39.14, Code of Criminal Procedure (page 3, line 9), between "under" and "an express statutory provision", insert "a rule of evidence,".

(17) In SECTION 1 of the amendment, in proposed Section 4, Article 39.14, Code of Criminal Procedure (page 3, line 21), strike "the other party or".

(18) In SECTION 1 of the amendment, in proposed Subsection (a), Section 5, Article 39.14, Code of Criminal Procedure (page 3, line 27), strike "other party" and substitute "other party's counsel".

(19) In SECTION 1 of the amendment, immediately following proposed Subsection (b), Section 5, Article 39.14, Code of Criminal Procedure (page 3, between lines 35 and 36), insert the following:

(c) Notwithstanding any other provision of this article, the attorney representing the state, without a protective court order or a hearing before the court, may excise from an offense report or other report any information related to the victim of an

offense that is listed under:

(1) Section 3g, Article 42.12; or

(2) Article 62.01(5).

(20) In SECTION 1 of the amendment, in proposed Section 6, Article 39.14, Code of Criminal Procedure (page 3, line 36), strike "(a)".

(21) In SECTION 1 of the amendment, strike proposed Subsection (b), Section 6, Article 39.14, Code of Criminal Procedure (page 3, lines 44-48).

(22) In SECTION 1 of the amendment, in proposed Subsection (a), Section 9, Article 39.14, Code of Criminal Procedure (page 3, line 67), strike "must" and substitute "may".

(23) In SECTION 1 of the amendment, in proposed Subsection (b), Section 9, Article 39.14, Code of Criminal Procedure (page 4, lines 4 and 5), strike "testimony of a witness or the presentation of real evidence" and substitute "use of a defense or the introduction of evidence".

(24) In SECTION 1 of the amendment, in proposed Subsection (c), Section 9, Article 39.14, Code of Criminal Procedure (page 4, line 9), strike "presentation of a witness" and substitute "introduction of evidence".

(25) In SECTION 1 of the amendment, in proposed Subsection (c), Section 9, Article 39.14, Code of Criminal Procedure (page 4, line 12), strike "and" and substitute "or".

(26) In SECTION 1 of the amendment, immediately following proposed Subsection (c), Section 9, Article 39.14, Code of Criminal Procedure (page 3, between lines 15 and 16), insert the following:

(d) The failure of the attorney representing the state or the defendant to comply with this article is not a ground for a court to set aside the conviction or sentence of the defendant, unless the court's action is authorized by the Texas Constitution or the United States Constitution.

Sec. 10. COSTS. (a) All reasonable and necessary costs related to a disclosure required under this article, including the photocopying of materials, shall be paid by the requesting party.

(b) The commissioners court of the county in which the indictment, information, or complaint is pending may not, as a

result of any payment by the defendant of the costs required by this article, reduce the amount of money provided by the county to the office of the attorney representing the state.

Sec. 11. DISCLOSURE TO THIRD PARTIES. Neither the attorney representing the state nor the attorney representing the defendant may disclose without obtaining approval of the trial court information or witness statements received from the opposing party to any third party, including the defendant, other than to an investigator, expert, or other agent for the attorney representing the state or the attorney representing the defendant, as applicable. Information or witness statements received under this article may not be made available to the public.

Sec. 12. PRO SE DEFENDANTS. This article, including the provisions regarding the nondisclosure of a witness statement or an offense report by law enforcement personnel, applies to a defendant who has elected to proceed pro se only to the extent approved by the court.

Sec. 13. CONFLICT OF LAW. To the extent of any conflict, this article prevails over Chapter 552, Government Code.