

## **BILL ANALYSIS**

H.B. 3151  
By: Escobar  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current case law recognizes that some witnesses have an incentive to falsely implicate criminal defendants because they expect to receive benefits as a result of their testimony. This case law requires that prosecutors in a criminal case disclose any agreements that have been made with witnesses that confer benefits or detriments based on the witness's testimony against a criminal defendant. These requirements increase the reliability of criminal convictions and the integrity of the judicial system by obliging the state to disclose those agreements which might affect the substance of a witness's testimony or the witness's credibility.

However, current statutory law does not require that the agreements themselves be committed to writing or that any communications about potential agreements be reduced to writing and disclosed to the defense before trial. As a result, in some cases, prosecutors and witnesses engage in informal agreements that are not formalized until *after* a witness testifies. In these cases, though the witness might testify against the defendant because of the expectation of a benefit from the prosecutor, the anticipated agreement might not be disclosed to the defendant.

H.B. 3151 would increase the fairness of criminal trials by requiring that the agreements themselves be put into writing and by requiring that any communications about potential agreements with witnesses be reduced to writing. This would ensure that defendants facing criminal charges are apprised of all the information that might impact the credibility of witnesses against them.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 3151 extends safeguards to defendants against whom witnesses have made agreements with the state to testify. H.B. 3151 requires that communications between a witness and state actors regarding the possibility that the witness will receive benefits in exchange for his or her testimony be reduced to writing and disclosed to the defense prior to trial. This language codifies best prosecution practices and existing case law regarding the disclosure of agreements concerning witness testimony.

### **EFFECTIVE DATE**

September 1, 2005.