

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 13, 2005**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB969** by Keel (Relating to court orders for discovery in a criminal case.), **Committee Report 2nd House, As Amended**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Article 39.14, Code of Criminal Procedure, to revise the rules of discovery in a criminal case. The bill would require an attorney representing the state to disclose a variety of records to the defendant or the defendant's counsel without a demonstration of good cause. Under current statute, records are made available to the defense attorney only upon a defendant showing good cause to obtain designated records. The bill would also repeal Section 2 of Article 46.03, Code of Criminal Procedure, which relates to requirements when a defendant plans to offer a defense of insanity. Procedures that would encompass discovery related to the insanity defense would be included in the revised rules of discovery.

The bill would take effect September 1, 2005 and would apply only to prosecution of an offense committed on or after that date.

**Local Government Impact**

It is anticipated that the defense attorney for most criminal cases would choose to request all items provided under the proposed revised rules of discovery. Therefore, it is anticipated that the provisions of the bill would result in an increase in the workload of the prosecuting attorney, which would result in an increase in costs. The fiscal implications of the increase in workload would vary by case (depending on the number of records per case) and by local government (depending on how many cases are tried per court).

As an example, Harris County (population 3.4 million) reports that in calendar year 2004, there were more than 36,000 felony criminal cases and more than 64,000 misdemeanor cases tried in that county. Harris County estimates that if the defense counsel for a majority of the criminal cases filed in the county were to seek discovery under the provisions of the bill, the district attorney's office would incur a significant increase in costs.

**Source Agencies:**

**LBB Staff:** JOB, KJG, DLBa, VDS, LB