

BILL ANALYSIS

Senate Research Center
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S.B. 2114
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Article 39.14, Code of Criminal Procedure, prosecutors are required to turn over to the defense all material evidence except those items that are exempted by statute. Prosecutors are obligated to disclose this evidence to the defendant, but in many instances prosecutors are reliant on the release of the evidence, known or not known to exist, held by the investigating law enforcement agency.

If an investigating law enforcement agency does not turn over information or evidence to the prosecutor, the prosecutor can face sanctions including reprimand, censure, termination, and even disbarment for his subsequent failure to disclose to the defense. The law enforcement agencies, however, are not compelled to disclose the information, nor do they face sanctions for their inadvertent or willful failure to release all evidence or required information to prosecutors. S.B. 2114 would require a law enforcement agency that files a case with the attorney representing the state to submit to the prosecutor a written statement from an officer employed by the agency that attests that all exculpatory, impeaching, or mitigating evidence in possession of the investigating agency has been released to the state's attorney.

The bill also requires that any exculpatory, impeaching, or mitigating evidence collected after the investigating agency files a case with the county or district attorney that is subject to discovery is also promptly turned over to the state's attorney.

S.B. 2114 further requires a law enforcement agency to turn over to prosecutors, the name of any peace officer other employee of the agency for which there has been a finding of misconduct related to state discovery law requirements (Article 39.14, Code of Criminal Procedure).

Finally, S.B. 2114 provides that a peace officer who violates the reporting requirements of this section could be disciplined under the authority of the Texas Commission on Law Enforcement.

As proposed, S.B. 2114 amends current law relating to certain duties of peace officers and law enforcement agencies concerning certain information subject to disclosure to a defendant.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.1397, as follows:

Art. 2.1397. DUTIES OF LAW ENFORCEMENT AGENCY FILING CASE. (a) Requires a law enforcement agency filing a case with the attorney representing the state to submit to the attorney representing the state a written statement by a peace officer employed by the agency acknowledging that all documents, items, and information in the possession of the agency that are required to be disclosed to the defendant in the case under Article 39.14(h) (relating to requiring the state to disclose to the defendant any

certain document, item or information in possession of the state that negates guilt of the defendant) have been transmitted to the attorney representing the state.

(b) Requires a peace officer employed by the agency, if at any time after the case is filed with the attorney representing the state the law enforcement agency discovers or acquires any additional document, item, or information required to be disclosed to the defendant under Article 39.14(h) or (k) (relating to requiring the state to disclose the existence of a document to a defendant if the state finds additional information required to be disclosed under Subsection (h)), to promptly transmit the document, item, or information to the attorney representing the state.

(c) Requires a law enforcement agency to promptly disclose to each attorney representing the state with whom the agency files cases the identity of each peace officer or other employee of the agency for whom a finding of misconduct has been sustained if that finding would be required to be disclosed to a defendant under Article 39.14 (Discovery).

SECTION 2. Amends Section 1701.501(a), Occupations Code, as follows:

(a) Requires the Texas Commission on Law Enforcement, except as provided by Subsection (d) (relating to circumstances in which a license is authorized to be revoked), to revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

(1)–(2) makes no changes these subdivisions;

(3) a duty imposed by Article 2.1397, Code of Criminal Procedure; or

(4) redesignates existing text of Subdivision (3) as Subdivision (4) and makes no further changes.

SECTION 3. Effective date: September 1, 2019.