

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 7, 2019**

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

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1139** by Thompson, Senfronia (Relating to the applicability of the death penalty to a capital offense committed by a person with an intellectual disability.), **As Engrossed**

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

The bill would amend the Code of Criminal Procedure to prohibit the sentencing to death a defendant with an intellectual disability, which the bill defines as significantly below average general intellectual functioning that is concurrent with significant deficits in adaptive behavior and originates during the developmental period.

The bill would allow the attorney of a defendant in a capital case to request in writing, no later than the first anniversary of the date of the defendant's indictment, a hearing to determine whether the defendant has an intellectual disability as defined in the bill and, upon request, appoint an expert to examine the defendant to determine whether the defendant has an intellectual disability. Evidence offered during the hearing must comport with prevailing medical standards for diagnosis of intellectual disabilities, and not later than 30 days of the end of the hearing, the judge must issue written findings explaining the judge's reasoning, citing evidence, and determining whether the defendant is or is not a person with an intellectual disability.

Based on the analysis of the Office of Court Administration, the bill may result in more hearings but the duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019, and apply to trials that begin on or after that date.

**Local Government Impact**

According to the Office of Court Administration, costs associated with the provisions of the bill may increase certain cost to counties, but since experts are already being utilized in cases that meet the criteria, no significant fiscal impact is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, LBO, MW, DA