

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 14, 2019

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB3281 by Hinojosa (Relating to a limitation on the use of a victim's gender identity or sexual orientation as the basis for a defense in the trial of a criminal offense.), **As Introduced**

The fiscal implications to the State cannot be determined at this time due to a lack of statewide data regarding cases in which an defendant's beliefs about the victim's gender identity or orientation was a factor in the conviction.

The bill would amend the Penal Code to limit the use of a victim's gender or sexual orientation as the basis for a defense in a criminal trial. The bill would prohibit a defendant from raising as an issue that the defendant demonstrated a lower degree of culpability than that charged if the defendant's claim of the lower degree of culpability is based on the discovery of the victim's gender identity or sexual orientation or nonviolent romantic or sexual advance made by the victim toward the actor. The bill would provide that when determining whether a defendant committed an offense under the immediate influence of sudden passion arising from an adequate cause, it is not an adequate cause that the offense resulted from the defendant's discovery of the victim's general identity or sexual orientation or nonviolent romantic or sexual advance made by the victim toward the defendant.

Due to a lack of statewide data regarding cases in which a defendant's belief about the victim's gender identity or orientation contributed to a defendant's conviction, the total impact to the number of convictions under the provisions of the bill are unknown; therefore, the fiscal implications of the bill cannot be determined. Additional information is available in the criminal justice impact statement.

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

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

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

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