

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 11, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB179 by Thompson, Senfronia (Relating to grand jury proceedings; providing a punishment for contempt of court.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to provide that unless the attorney representing the state presents material evidence that was not known to the state before or during the previous grand jury investigation, a grand jury may not investigate a person who is accused or suspected of an offense and may not vote to present an indictment for the offense if the person has previously been investigated by a grand jury for the same offense where the grand jury found no bill of indictment.

Under current law, only certain persons may be present in a grand jury room while the grand jury is conducting proceedings. The bill would add an attorney representing a witness, including a witness who is an accused or suspected person, for the sole purpose of providing certain consultation.

The bill would provide that the state's attorney must present to a grand jury investigating an offense any evidence that is favorable to the accused or suspected person, that is material to the offense being investigated, and that is in the possession, custody, or control of the state or a person under contract with the state.

The bill would provide that all statements made by the grand jury or the state's attorney and all witness testimony must be recorded. The bill would provide grand jury deliberations cannot be recorded and would provide that the validity of a grand jury proceeding is not affected by the unintentional failure to record the proceedings as required.

The bill would require the state's attorney, if it provides notice to the accused or suspected person of the grand jury investigation, to produce and permit the inspection and copying by or on the behalf of the accused of certain evidence. The bill would establish a framework for the inspection of evidence by the accused or suspected person.

The bill would require the state to disclose to the accused or suspected person certain evidence that tends to negate the guilt of the accused or suspected person or would tend to reduce the punishment for the offense being investigated.

The bill would require a person subpoenaed to appear as a witness before a grand jury to be given a reasonable opportunity to retain counsel and to consult counsel before the appearance and requires that the person be given certain oral warnings before questioning by the grand jury.

The bill would amend the Civil Practice and Remedies Code to allow an accused or suspected person, within 30 days of a grand jury vote, to submit an application to the court to recover attorney's fees and related expenses and waives sovereign immunity to the extent of this liability.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

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

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKN, BH, AF