

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 18, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB869 by Thompson, Senfronia (Relating to the applicability of the death penalty to a capital offense committed by a person with an intellectual disability.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to prohibit sentencing to death a defendant with an intellectual disability.

The bill would establish a procedure to allow a defendant in a capital case to request, in writing no later than one year after the indictment, a hearing to determine whether the defendant is a person with an intellectual disability. Under the bill's provisions, upon receipt of timely filed request, a court must hold a hearing to determine the issue raised in the petition not earlier than 180 days after the request was filed or later than 120 days before trial.

If an untimely request is filed, the bill would allow a judge to hold a hearing to determine whether the defendant is a person with an intellectual disability if the defendant can show good cause why the request was not timely filed. The burden of proof at the hearing, by a preponderance of the evidence standard, would rest with the defendant. Upon request or on the court's own motion, the judge would be required to appoint a disinterested, experienced, qualified expert to examine the defendant to determine whether the defendant has an intellectual disability. Evidence offered during the hearing would be required to comport with prevailing medical standards for diagnosis of intellectual disabilities, and no later than the 30th day after the hearing, the judge would be required to issue written findings and conclusions regarding their determination of the issue, citing evidence in the record.

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.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

Because counties are responsible for paying for experts in criminal cases, counties may experience an increase in costs due to the bill's provisions. However, OCA anticipates that the experts are already being utilized in cases that would meet the criteria. Therefore, no significant fiscal impact to local courts is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKN, BH, AF