

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: HB970 by Dutton (Relating to prosecutorial transparency.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB970, As Introduced : a negative impact of (\$1,747,164) through the biennium ending August 31, 2023.

The bill would have a negative impact of (\$6,891,680) to General Revenue-Dedicated Statewide Electronic Filing System Account 5157 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$940,955)
2023	(\$806,209)
2024	(\$806,650)
2025	(\$825,655)
2026	(\$821,307)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Statewide Electronic Filing System 5157</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$940,955)	(\$3,891,680)	5.0
2023	(\$806,209)	(\$3,000,000)	5.0
2024	(\$806,650)	(\$3,000,000)	5.0
2025	(\$825,655)	(\$3,000,000)	5.0
2026	(\$821,307)	(\$3,000,000)	5.0

Fiscal Analysis

The bill would amend the Government Code to require a prosecutor's office to collect and disclose certain information for each case presented to the office. The bill would require the prosecutor's office to maintain this information for each case until at least the 10th anniversary of the date of the alleged offense that is the subject of the case. The bill would require the prosecutor's office to collect and publish all office policies,

including those listed in the bill, and requires the prosecutor's office to affirmatively disclose the fact that the office does not maintain a policy related to the topics listed in the bill if the office does not maintain such a policy. The bill would require a prosecutor's office to collect and publish certain information for each attorney employed in its office, redacting certain personally identifying information.

The bill would require a prosecutor's office to report certain information to the Office of Court Administration (OCA), which must develop a plan for all prosecutor's offices to report the information. The bill would require OCA to publish the reported information on May 1 of each year and requires OCA to produce on September 1 of every year an annual report analyzing the information received, contrasting practices and trends among offices, and identifying any prosecutor's office that is not in compliance with the new chapter. The bill would also require OCA to biannually publish issue-specific reports on prosecutorial decision-making, with at least one report each year focusing on racial disparities in prosecutorial decision-making. The bill would also require a prosecutor's office to transmit to OCA non-identifying information about each person arrested or prosecuted in the preceding calendar year.

The bill would establish an advisory board provide comments and guidance to OCA on any draft rules, policies, plans, reports, or other decisions made by OCA related to the bill's provisions. The bill would set the new board's composition but would bar an advisory board member from receiving compensation for services on the advisory board.

The bill would provide that a prosecutor's office that is not in compliance with the new chapter is ineligible to receive any funding from the general revenue fund or other fund or any state grant program administered by the Office of the Attorney General (OAG), and that OCA must inform the comptroller and the Legislative Budget Board of the ineligibility. The bill would set the conditions for the restoration of funds.

The bill also sets rules regarding public records requests and disclosure related to information published online.

The bill would take effect September 1, 2021.

Methodology

Costs reflected in the table above are based on the analysis provided by OCA.

For the purposes of this analysis, it is assumed that OCA would need General Revenue funding for 5 research specialists to process the data submitted by the prosecutors and to produce the required reports. Salary costs for these employees would be \$318,055 for each year of the 2022-23 biennium and subsequent years. Operating and payroll related benefit costs would total \$235,550 for fiscal year 2022. This amount includes equipment costs for new employees. Operating and payroll related benefit costs would total \$173,880 for fiscal year 2023; \$174,285 in fiscal year 2024; \$191,720 in fiscal year 2025; and \$175,220 in fiscal year 2026. OCA anticipates indirect program administration costs of \$399,025 in fiscal year 2022; \$314,274 in fiscal year 2023; \$314,311 in fiscal year 2024; \$315,880 in fiscal year 2025; and \$328,032 in fiscal year 2026.

Based on information provided by OCA, it is assumed that the agency would procure a system from a vendor at an initial cost of \$3,891,680 in fiscal year 2022 to accept and maintain the case-level information required by the bill. It is also assumed that subsequent costs of \$3,000,000 would be required each fiscal year for cloud storage costs. This project would be eligible for funding from the General Revenue-Dedicated Statewide Electronic Filing Fund No. 5157. Based on information provided in the Comptroller's Biennial Revenue Estimate, this analysis assumes there would be sufficient funding available in the account in the 2022-23 biennium to cover funding necessary to implement the provisions of the bill.

Based on information provided by the OAG, it is assumed that duties and responsibilities necessary to implement the provisions of the bill could be accomplished utilizing existing resources.

Technology

This analysis assumes an initial cost of \$3,891,680 to procure a new system in fiscal year 2022 with subsequent costs of \$3,000,000 each fiscal year for cloud storage costs.

Local Government Impact

Bexar County anticipates a significant fiscal impact to the county of approximately \$150,000 per fiscal year for at least three additional full-time employees. The County also anticipates a fiscal impact in the case of noncompliance with the bill, which would result in ineligibility of state grant funding for the office.

Hays County anticipates a significant fiscal impact that would include software modification fees for reporting requirements that would require programming and training. The County estimates annual personnel costs of \$120,000 for necessary full-time staff.

Potter County anticipates a fiscal impact of between \$1.6 and \$1.7 million per fiscal year due to required new full-time staff, technology and software costs, and additional attorney time required for each case.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General

LBB Staff: JMc, DKN, MW, BH, AF