

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 9, 2021

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1374 by Minjarez (relating to the confidential and privileged communications and records of victims of certain sexual assault offenses.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to provide that any communication, including oral and written communications, between an advocate and a sexual assault survivor made in the course of advising, counseling, or assisting the survivor is confidential. The bill would also provide that any record created by, provided to, or maintained by an advocate is confidential if it relates to the services provided to a sexual assault survivor or contains certain information related to the survivor; that, subject to certain disclosure law, a survivor has a privilege to refuse to disclose and to prevent another from disclosing a communication or record made confidential by the bill; and that unauthorized disclosure of any portion of a confidential communication does not constitute waiver of the privilege and that if disclosed a party may make a motion requesting that privilege be waived with respect to the disclosed portion. The bill would outline how a determination that the privilege was waived must be made.

The bill would repeal Government Code Section 420.074, which provides that a person must disclose a communication, record, or evidence made confidential under Chapter 420 for use in a criminal investigation or proceeding in response to a subpoena issued in accordance with law.

The bill would also provide that, notwithstanding one of its provision's subsections (a) and (b), the Texas Rules of Evidence govern the disclosure of a communication or record that is confidential under Section 420.071 in a criminal or civil proceeding by an expert witness who relies on facts or data from the communication or record to form the basis of the expert 's opinion.

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, SLE, BH, MW