

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: HB1717 by Thompson, Senfronia (Relating to the state's continuing duty to disclose exculpatory, impeachment, or mitigating evidence in a criminal case and prohibited retaliation against local assistant prosecutors for discharging that duty.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>

The bill would amend the Code of Criminal Procedure to require the state to disclose any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged, regardless of the date the applicable offense was committed.

The bill would amend the Government Code to protect from retaliation by a county attorney, district attorney or criminal district attorney an assistant prosecutor who discloses exculpatory, impeachment, mitigating evidence material or refuses to follow direction to withhold evidence from a defendant or a court. Under the provisions of the bill, the elected prosecutor of a county, district, or criminal district would not be able to suspend or terminate the employment of or take other adverse personnel action against an assistant prosecutor for disclosing or refusing to withhold the material. An assistant prosecutor would be able to bring a civil action for injunctive and compensatory relief against the prosecutor, if needed. The prosecutor would not be entitled to assert sovereign immunity. The bill would provide an affirmative defense if the prosecutor terminated or suspended the assistant prosecutor for a reason other than disclosing or refusing to withhold the material.

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, MW, BH