

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 9, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3363 by Harless (Relating to the issuance and execution of certain search warrants in a criminal investigation and the admissibility of evidence obtained through certain searches.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to require a search warrant for the disclosure of location information created after the issuance of the warrant and held in electronic storage by an electronic communications service provider or provider of a remote computing service. A prosecutor would have to file an application and sworn affidavit that contains sufficient probable cause for the warrant to issue for a period of no more than 60 days, unless the court grants an extension. The court would have to seal the documents filed by the prosecutor until the warrant expires or is executed.

The bill would provide an exception to the warrant requirement. An authorized peace officer would be able to require the disclosure of location information without a warrant if the officer reasonably believes an “immediate life-threatening situation” not only exists within the officer's territorial jurisdiction but also necessitates prompt disclosure, and sufficient and substantial facts establish probable cause to permit the disclosure. A prosecutor would not be able to use information obtained in violation of the bill as evidence in a criminal proceeding.

Based on the analysis of the Office of Court Administration and Department of Public Safety it is assumed that duties and responsibilities associated with implementing the bill could be accomplished utilizing available resources. In addition, no significant fiscal impact to the state court system is anticipated with the implementation of the bill.

Local Government Impact

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

Source Agencies: 212 Office of Court Admin, 405 Department of Public Safety

LBB Staff: JMc, DKN, BH