

## **BILL ANALYSIS**

Senate Research Center

S.B. 34  
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Finance  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law does not allow a person called by the legislature or a legislative committee to refuse to testify or produce a document on the grounds that doing so will incriminate the person. In exchange, if a person is compelled to testify while claiming that the testimony or document may incriminate the person, Texas law grants the person complete immunity from prosecution, such that the person may not be indicted or prosecuted for any matter related to the testimony. This is known as transactional immunity.

S.B. 34 removes the incentive to testify to avoid criminal prosecution. Instead of transactional immunity, S.B. 34 grants testimonial immunity to compelled witnesses, meaning that the testimony or evidence a person must produce may not be used against the person in a criminal prosecution, but the person can still be indicted for the crime, excluding prosecution for any offense involving perjury.

As proposed, S.B. 34 amends current law relating to testimony or the production of evidence before a house of the legislature or a legislative committee.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 301.025, Government Code, as follows:

Sec. 301.025. New heading: REQUIRING WITNESS TO TESTIFY OR PRODUCE EVIDENCE; IMMUNITY; COUNSEL. (a) Prohibits a witness called by either house of the legislature or by a legislative committee from refusing to testify to a fact or produce a document or other evidence for any reason, except as provided by Subsection (b). Deletes existing text providing that a witness called by either house or by a legislative committee does not have a privilege to refuse to testify to a fact or produce a document on the ground that the testimony or document may tend to disgrace the person or otherwise make the person infamous.

(b) Authorizes a witness called by either house of the legislature or by a legislative committee, subject to Subsection (c), to refuse to testify to a fact or produce a document or other evidence on the ground that the testimony or evidence may incriminate the person.

(c) Creates this subsection from existing text. Authorizes a house of the legislature or a legislative committee to require a person to testify or produce a document or other evidence concerning a matter under inquiry before that house or committee, rather than before either house or a legislative committee, even if the person claims that the testimony or evidence, rather than document, may incriminate the person. Makes a nonsubstantive change.

(d) Redesignates existing Subsection (c) as Subsection (d). Prohibits the testimony or evidence that a person is compelled to produce, or any information directly or indirectly derived from that testimony or evidence, if the person testifies or produces a document or other evidence as required under Subsection (c) while claiming that the testimony or evidence may incriminate the person, from being used against the person in any criminal prosecution, other than a prosecution for any offense involving perjury or making a false statement or providing false information. Deletes existing text prohibiting a person, if the person testifies or produces a document while claiming that the testimony or document may incriminate him, from being indicted or prosecuted for any transaction, matter, or thing about which the person truthfully testified or produced evidence.

(e) Redesignates existing Subsection (d) as Subsection (e). Provides that a witness has a right to counsel when testifying before either house of the legislature or a legislative committee.

SECTION 2. Effective date: upon passage or the 91st day after the last day of the legislative session.