

BILL ANALYSIS

Senate Research Center
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S.B. 1386
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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. 1386 removes the incentive to testify to avoid criminal prosecution. Instead of transactional immunity, S.B. 1386 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.

Additionally, S.B. 1386 still empowers the legislature or either house to compel testimony or evidence production, even if it may incriminate the witness; however, this requires a written order adopted by the legislature or appropriate house and signed by the appropriate presiding officer or officers.

As proposed, S.B. 1386 amends current law relating to testimony or the production of evidence before 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 the legislature, 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 the legislature, 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 the legislature or a house of the legislature, by written order adopted by the legislature or appropriate house and signed by the appropriate presiding officer or officers, to require a

person to testify or produce a document or other evidence concerning a matter under inquiry before either house or a legislative committee even if the person claims that the testimony or evidence, rather than document, may incriminate the person, rather than him.

(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 the legislature, either house of the legislature, or a legislative committee.

SECTION 2. Effective date: upon passage or September 1, 2025.