

BILL ANALYSIS

Senate Research Center
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H.B. 1360
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, records held by prosecutors related to a criminal case cannot be shared with the defense for fear that they might be subject to disclosure under the Public Information Act.

This information could be critical in criminal cases and could also jeopardize prosecution if it is in the public domain. There are also concerns that others named in reports related to a criminal investigation could also be put at risk. Potential jurors could also be influenced by media reports. A defendant who is eventually found innocent may also needlessly have damaging information made public causing harm to that person's reputation and future prospects.

The needs of justice in these instances are put at issue with the public's perceived right to know. Sensitive records of a criminal investigation are of greater relevance in protecting public safety and the rights of innocent parties who may be affected.

H.B. 1360 allows information to be shared between prosecution and defense without the concern that the information may become public. The bill does not compel prosecutors to provide complete files to defense. It does, however, eliminate potential conflicts between the release of those files and the Public Information Act.

H.B. 1360 relates to the effect under the public information law of the disclosure of certain information by a prosecutor to defense counsel.

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 Chapter 38, Code of Criminal Procedure, by adding Article 38.02, as follows:

Art. 38.02. EFFECT UNDER PUBLIC INFORMATION LAW OF RELEASE OF CERTAIN INFORMATION. Provides that a release of information by an attorney representing the state to defense counsel for a purpose relating to the pending or reasonably anticipated prosecution of a criminal case is not considered a voluntary release of information to the public for purposes of Section 552.007 (Voluntary Disclosure of Certain Information When Disclosure not Required), Government Code, and does not waive the right to assert in the future that the information is excepted from required disclosure under Chapter 552 (Public Information), Government Code.

SECTION 2. Effective date: upon passage or September 1, 2009.