

SUBJECT: Disclosing certain criminal history records to defendant in original format

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Collier, K. Bell, Cason, Crockett, Hinojosa, A. Johnson, Murr, Vasut

1 nay — Cook

WITNESSES: For — DeVaughn Aubrey, Cannabis Reform Of Houston; (*Registered, but did not testify*: M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Susybelle Gosslee, League of Women Voters Texas; Lindy Borchardt, Tarrant County Criminal District Attorney; Shea Place, Texas Criminal Defense Lawyers Association)

Against — None

On — Shane Attaway, Office of the Attorney General

BACKGROUND: Code of Criminal Procedure art. 39.14 establishes procedures for discovery in criminal cases and requires the state to produce and allow the inspection and duplication of certain materials that contain evidence relating to a case. The statute includes requirements on handling documents and other information.

DIGEST: HB 842 would revise the notice requirements in a criminal case that relate to the state's intention to introduce evidence of other crimes, wrongs, or acts committed by the defendant or evidence of the prior criminal record of a potential witness.

Notice requirements related to the state's intention to introduce such evidence would be considered satisfied if a prosecutor timely disclosed to the defendant or the defendant's attorney criminal history record information in the original format in which it was retrieved from a Department of Public Safety (DPS) or Federal Bureau of Investigation (FBI) database and the disclosure was made in accordance with Code of

Criminal Procedure art. 39.14. This provision would not apply to criminal history record information that the prosecutor intended to introduce to enhance a punishment.

A prosecutor could disclose to the defendant criminal history record information that related to the defendant or a potential witness in the case and that was obtained from DPS or the FBI. With the disclosure, prosecutors would be required to provide a copy of the statute that provides criminal penalties for the unauthorized obtaining, use, or disclosure of criminal history record information.

The bill would take effect September 1, 2021, and would apply to trials that begin on or after that date.

**SUPPORTERS
SAY:**

HB 842 would make a common sense update to laws governing the form in which certain information can be shared by the state with a defendant in a criminal case. The bill would allow certain criminal history records of the defendant or potential witnesses to be shared in the form they are received from a Department of Public Safety or Federal Bureau of Investigation database, rather than retyping or reproducing the records in another document. This sharing would suffice for all circumstances in which a prosecutor is required to provide notice to a defendant, except for circumstances related to enhancing punishments. The bill would ensure information was handled properly by having the prosecutor provide a copy of the law on criminal penalties for the unauthorized use of the criminal history record information.

**CRITICS
SAY:**

HB 842 includes unnecessary provisions requiring prosecutors to disclose to defendants the penalties for unauthorized use of criminal history record information since defendants should already be aware of such sanctions.