

BILL ANALYSIS

Senate Research Center
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S.B. 1633
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Criminal Justice
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there is no law addressing the issue of the Office of the Attorney General being unable to properly defend its cases due to lack of clear guidelines for obtaining relevant court records from state agencies, officers, or institutions. The Office of the Attorney General is charged with defending the director of the prison system in federal habeas corpus cases that challenge state court convictions. The records that are necessary to defend these convictions are in the possession of various state courts, county attorney offices, district attorney offices, and other state agencies. The lack of a clear procedure results in delays and sometimes the courts refuse to turn over the records.

As proposed, S.B. 1633 requires state agencies and the clerks of all district courts, statutory county courts, constitutional county courts, and courts of appeals to turn over any government records requested records within 10 days of a written request for the purpose of defending state convictions.

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 Article 2.23, Code of Criminal Procedure, as follows:

Art. 2.23. REPORT TO ATTORNEY GENERAL. (a) Creates this subsection from existing text. Requires the clerks of the district courts, statutory county courts, constitutional county courts, and courts of appeals, when requested in writing by the attorney general, to report to the attorney general no later than the 10th day after the date the request is received, and in the form prescribed by the attorney general, information in court records that relates to a criminal matter, including information requested by the attorney general for the purposes of federal habeas review.

(b) Creates this subsection from existing text. Requires the attorney general, when a clerk of a district court, statutory county court, constitutional county court, or a court of appeals has failed, neglected, or refused to provide a report or record after receiving a written request for the report or record under Subsection (a), to notify, in writing, the comptroller of public accounts of the failure, neglect, or refusal, and requires the comptroller to not draw any warrant in favor of the court until the report or record has been provided to the attorney general.

(c) Requires a state agency or the office of an attorney representing the state, when requested in writing by the attorney general, to provide the attorney general any record that is needed for purposes of federal habeas review. Requires the agency or office to provide the record no later than the 10th day after the date the request is received and in the form prescribed by the attorney general.

(d) Prohibits a district court, statutory county court, constitutional county court, court of appeals, state agency, or office of an attorney representing the state from restricting or delaying the reproduction or delivery of a record requested by the attorney general under this article.

SECTION 2. Effective date: September 1, 2005.