

SUBJECT: Allowing for a continuance due to insufficient notice of trials or hearings

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Hunter, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Canales

WITNESSES: For — Vincent Giardino, Tarrant County Criminal District Attorney's Office; (*Registered, but did not testify*: Shane Deel, Callahan County Attorney's Office; Jennifer Tharp, Comal County Criminal District Attorney; Katija Gruene, Green Party of Texas; Tiana Sanford, Montgomery County District Attorney's Office; Allen Place, Texas Criminal Defense Lawyers Association; Julie Wheeler, Travis County Commissioners Court; Justin Wood, Travis County District Attorney; Bill Lane)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 29 governs continuances in criminal cases.

DIGEST: HB 1266 would give both the prosecution and the defense the right to a continuance in a criminal case if the court set a hearing or trial without providing either side at least three business days' notice before the date of the hearing or trial. This provision would not apply between the date a trial began and the date a judgment was entered.

The bill would take effect September 1, 2017, and would apply to cases pending before a trial court on or after that date.

SUPPORTERS SAY: HB 1266 would help ensure that certain pre-trial motions, such as those to suppress evidence or quash indictments, did not catch either side in a court proceeding by surprise. When the state or defense files such a

motion, it can require a witness to be called, which can be a time-consuming process, especially if the witness is uncooperative. This bill would grant a brief period to the prosecutor or defense attorney to adequately prepare for such hearings.

While most cases may not require requests for extra time, HB 1266 would ensure that neither side nor the court could force an attorney to a hearing without proper notice. This would reduce the risk of mistakes in the courtroom and engender more confidence in the integrity of the criminal justice system.

OPPONENTS
SAY:

No apparent opposition.