

1-1 By: West S.B. No. 508
1-2 (In the Senate - Filed January 28, 2021; March 9, 2021, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 21, 2021, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Bettencourt	X		
1-11	Birdwell	X		
1-12	Hinojosa	X		
1-13	Miles	X		
1-14	Nichols	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the confidentiality of and discovery procedures
1-18 relating to certain material regarding the protection or security
1-19 of a witness; creating a criminal offense.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. This Act may be cited as the Tyrek Jenkins Act.

1-22 SECTION 2. Article 39.14(a), Code of Criminal Procedure, is
1-23 amended to read as follows:

1-24 (a) Subject to the restrictions provided by Section
1-25 264.408, Family Code, and Articles [Article] 39.15 and 39.16 of
1-26 this code, as soon as practicable after receiving a timely request
1-27 from the defendant the state shall produce and permit the
1-28 inspection and the electronic duplication, copying, and
1-29 photographing, by or on behalf of the defendant, of any offense
1-30 reports, any designated documents, papers, written or recorded
1-31 statements of the defendant or a witness, including witness
1-32 statements of law enforcement officers but not including the work
1-33 product of counsel for the state in the case and their investigators
1-34 and their notes or report, or any designated books, accounts,
1-35 letters, photographs, or objects or other tangible things not
1-36 otherwise privileged that constitute or contain evidence material
1-37 to any matter involved in the action and that are in the possession,
1-38 custody, or control of the state or any person under contract with
1-39 the state. The state may provide to the defendant electronic
1-40 duplicates of any documents or other information described by this
1-41 article. The rights granted to the defendant under this article do
1-42 not extend to written communications between the state and an
1-43 agent, representative, or employee of the state. This article does
1-44 not authorize the removal of the documents, items, or information
1-45 from the possession of the state, and any inspection shall be in the
1-46 presence of a representative of the state.

1-47 SECTION 3. Chapter 39, Code of Criminal Procedure, is
1-48 amended by adding Article 39.16 to read as follows:

1-49 Art. 39.16. MATERIAL RELATED TO WITNESS PROTECTION OR
1-50 SECURITY. (a) This article applies to any record, claim, writing,
1-51 document, information, or other material:

1-52 (1) received, made, or kept by an agency or program
1-53 with the primary purpose of protecting, securing, or relocating
1-54 witnesses; or

1-55 (2) in the possession of the state and relating to the
1-56 protecting, securing, or relocating of a witness by an agency or
1-57 program described by Subdivision (1).

1-58 (b) Notwithstanding Article 39.14, the state may not
1-59 produce for the defendant or permit the inspection by the defendant
1-60 of material described by Subsection (a) before the material has
1-61 been submitted to the court for an in camera review and the court

2-1 has determined that the production or inspection of the material
 2-2 is:

2-3 (1) required under the United States Constitution; or
 2-4 (2) otherwise necessary for a matter before the court.

2-5 (c) To preserve material for appellate review, the court
 2-6 shall place any material reviewed in camera under this article
 2-7 under seal of the court.

2-8 (d) A prosecutor or other attorney representing an agency or
 2-9 program with the primary purpose of protecting, securing, or
 2-10 relocating witnesses has standing in any criminal action to oppose
 2-11 the disclosure of material under this article.

2-12 SECTION 4. Chapter 30, Civil Practice and Remedies Code, is
 2-13 amended by adding Section 30.0065 to read as follows:

2-14 Sec. 30.0065. MATERIAL RELATED TO WITNESS PROTECTION OR
 2-15 SECURITY. (a) This section applies to any record, claim, writing,
 2-16 document, information, or other material:

2-17 (1) received, made, or kept by an agency or program
 2-18 with the primary purpose of protecting, securing, or relocating
 2-19 witnesses; or

2-20 (2) in the possession of the state and relating to the
 2-21 protecting, securing, or relocating of a witness by an agency or
 2-22 program described by Subdivision (1).

2-23 (b) A party in a civil case may not produce or release
 2-24 material described by Subsection (a) before the material has been
 2-25 submitted to the court for an in camera review and the court has
 2-26 determined that the production or release of the material is
 2-27 necessary for a matter before the court.

2-28 (c) To preserve material for appellate review, the court
 2-29 shall place any material reviewed in camera under this section
 2-30 under seal of the court.

2-31 (d) A prosecutor or other attorney representing an agency or
 2-32 program with the primary purpose of protecting, securing, or
 2-33 relocating witnesses has standing in any civil action to oppose the
 2-34 disclosure of material under this section.

2-35 SECTION 5. Subchapter C, Chapter 552, Government Code, is
 2-36 amended by adding Section 552.1082 to read as follows:

2-37 Sec. 552.1082. EXCEPTION: CONFIDENTIALITY OF CERTAIN
 2-38 INFORMATION REGARDING WITNESS PROTECTION OR SECURITY. Information
 2-39 is confidential and excepted from the requirements of Section
 2-40 552.021 if the information is:

2-41 (1) received, made, or kept by an agency or program
 2-42 with the primary purpose of protecting, securing, or relocating
 2-43 witnesses; or

2-44 (2) in the possession of the state and relating to the
 2-45 protecting, securing, or relocating of a witness by an agency or
 2-46 program described by Subdivision (1).

2-47 SECTION 6. Chapter 38, Penal Code, is amended by adding
 2-48 Section 38.20 to read as follows:

2-49 Sec. 38.20. UNLAWFUL DISCLOSURE OF MATERIAL RELATED TO
 2-50 WITNESS PROTECTION OR SECURITY. (a) A person commits an offense if
 2-51 the person knowingly discloses any record, claim, writing,
 2-52 document, information, or other material:

2-53 (1) in violation of Article 39.16, Code of Criminal
 2-54 Procedure, or Section 30.0065, Civil Practice and Remedies Code; or

2-55 (2) in response to a request under Chapter 552,
 2-56 Government Code, when the record, claim, writing, document,
 2-57 information, or other material is confidential and excepted from
 2-58 disclosure under Section 552.1082, Government Code.

2-59 (b) An offense under this section is a Class A misdemeanor.

2-60 SECTION 7. (a) Article 39.14, Code of Criminal Procedure,
 2-61 as amended by this Act, and Article 39.16, Code of Criminal
 2-62 Procedure, as added by this Act, apply only to the prosecution of an
 2-63 offense committed on or after the effective date of this Act. The
 2-64 prosecution of an offense committed before the effective date of
 2-65 this Act is governed by the law in effect on the date the offense was
 2-66 committed, and the former law is continued in effect for that
 2-67 purpose. For purposes of this section, an offense is committed
 2-68 before the effective date of this Act if any element of the offense
 2-69 occurs before the effective date.

3-1 (b) Section 30.0065, Civil Practice and Remedies Code, as
3-2 added by this Act, applies only to an action commenced on or after
3-3 the effective date of this Act.

3-4 (c) Section 552.1082, Government Code, as added by this Act,
3-5 applies only to a request for public information received on or
3-6 after the effective date of this Act. A request for public
3-7 information received before the effective date of this Act is
3-8 governed by the law in effect on the date the request was received,
3-9 and the former law is continued in effect for that purpose.

3-10 SECTION 8. This Act takes effect September 1, 2021.

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