

By: González of Dallas

H.B. No. 1230

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the confidentiality of and discovery procedures
3 relating to certain material regarding the protection or security
4 of a witness; creating a criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

7 SECTION 2. Article 39.14(a), Code of Criminal Procedure, is
8 amended to read as follows:

9 (a) Subject to the restrictions provided by Section
10 264.408, Family Code, and Articles [~~Article~~] 39.15 and 39.16 of
11 this code, as soon as practicable after receiving a timely request
12 from the defendant the state shall produce and permit the
13 inspection and the electronic duplication, copying, and
14 photographing, by or on behalf of the defendant, of any offense
15 reports, any designated documents, papers, written or recorded
16 statements of the defendant or a witness, including witness
17 statements of law enforcement officers but not including the work
18 product of counsel for the state in the case and their investigators
19 and their notes or report, or any designated books, accounts,
20 letters, photographs, or objects or other tangible things not
21 otherwise privileged that constitute or contain evidence material
22 to any matter involved in the action and that are in the possession,
23 custody, or control of the state or any person under contract with
24 the state. The state may provide to the defendant electronic

1 duplicates of any documents or other information described by this
2 article. The rights granted to the defendant under this article do
3 not extend to written communications between the state and an
4 agent, representative, or employee of the state. This article does
5 not authorize the removal of the documents, items, or information
6 from the possession of the state, and any inspection shall be in the
7 presence of a representative of the state.

8 SECTION 3. Chapter 39, Code of Criminal Procedure, is
9 amended by adding Article 39.16 to read as follows:

10 Art. 39.16. MATERIAL RELATED TO WITNESS PROTECTION OR
11 SECURITY. (a) This article applies to any record, claim, writing,
12 document, information, or other material other than the statement
13 of a witness:

14 (1) received, made, or kept by a specialized program
15 or division within a district attorney's or criminal district
16 attorney's office that:

17 (A) consists of at least one program coordinator,
18 investigator, and financial administrator; and

19 (B) has the primary purpose of assessing threats
20 against, protecting, securing, or relocating witnesses; or

21 (2) in the possession of the state and directly
22 relating to assessing threats against, protecting, securing, or
23 relocating a witness by a program or division described by
24 Subdivision (1).

25 (b) Notwithstanding Article 39.14, the state may not
26 produce for the defendant or permit the inspection by the defendant
27 of material described by Subsection (a) before the material has

1 been submitted to the court for an in camera review and the court
2 has determined that the production or inspection of the material
3 is:

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

6 (c) If the court determines that the disclosure of material
7 reviewed in camera under this article is not required or necessary,
8 the court shall:

- 9 (1) place the material under seal of the court; and
- 10 (2) enter a finding that the material was withheld for
11 purposes of witness protection and security under this article.

12 (d) The requirements of Article 39.14, including Subsection
13 (f) of that article, apply to material disclosed in accordance with
14 Subsection (b).

15 (e) A district attorney, criminal district attorney, or
16 assistant district attorney representing a specialized program or
17 division described by Subsection (a)(1) has standing in any
18 criminal action to oppose the disclosure of material under this
19 article.

20 (f) Regardless of whether material relating to a witness is
21 disclosed or withheld under this article, the court may provide for
22 the interview of a witness who consents to be interviewed.

23 SECTION 4. Chapter 30, Civil Practice and Remedies Code, is
24 amended by adding Section 30.0065 to read as follows:

25 Sec. 30.0065. MATERIAL RELATED TO WITNESS PROTECTION OR
26 SECURITY. (a) This section applies to any record, claim, writing,
27 document, information, or other material other than a witness

1 statement:

2 (1) received, made, or kept by a specialized program
3 or division within a district attorney's or criminal district
4 attorney's office that:

5 (A) consists of at least one program coordinator,
6 investigator, and financial administrator; and

7 (B) has the primary purpose of assessing threats
8 against, protecting, securing, or relocating witnesses; or

9 (2) in the possession of the state and directly
10 relating to assessing threats against, protecting, securing, or
11 relocating a witness by a program or division described by
12 Subdivision (1).

13 (b) A party in a civil case may not produce or release
14 material described by Subsection (a) before the material has been
15 submitted to the court for an in camera review and the court has
16 determined that the production or release of the material is
17 necessary for a matter before the court.

18 (c) If the court determines that the disclosure of material
19 reviewed in camera under this section is not necessary, the court
20 shall:

21 (1) place the material under seal of the court; and

22 (2) enter a finding that the material was withheld for
23 purposes of witness protection and security under this section.

24 (d) A district attorney, criminal district attorney, or
25 assistant district attorney representing a specialized program or
26 division described by Subsection (a)(1) has standing in any civil
27 action to oppose the disclosure of material under this section.

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

3 Sec. 552.1082. EXCEPTION: CONFIDENTIALITY OF CERTAIN
4 INFORMATION REGARDING WITNESS PROTECTION OR SECURITY. Information
5 is confidential and excepted from the requirements of Section
6 552.021 if the information is:

7 (1) received, made, or kept by a specialized program
8 or division within a district attorney's or criminal district
9 attorney's office that:

10 (A) consists of at least one program coordinator,
11 investigator, and financial administrator; and

12 (B) has the primary purpose of assessing threats
13 against, protecting, securing, or relocating witnesses; or

14 (2) in the possession of the state and directly
15 relating to assessing threats against, protecting, securing, or
16 relocating a witness by a program or division described by
17 Subdivision (1).

18 SECTION 6. Chapter 38, Penal Code, is amended by adding
19 Section 38.20 to read as follows:

20 Sec. 38.20. UNLAWFUL DISCLOSURE OF MATERIAL RELATED TO
21 WITNESS PROTECTION OR SECURITY. (a) A person commits an offense if
22 the person knowingly discloses any record, claim, writing,
23 document, information, or other material:

24 (1) in violation of Article 39.16, Code of Criminal
25 Procedure, or Section 30.0065, Civil Practice and Remedies Code; or

26 (2) in response to a request under Chapter 552,
27 Government Code, when the record, claim, writing, document,

1 information, or other material is confidential and excepted from
2 disclosure under Section 552.1082, Government Code.

3 (b) An offense under this section is a Class A misdemeanor.

4 SECTION 7. (a) Article 39.14, Code of Criminal Procedure,
5 as amended by this Act, and Article 39.16, Code of Criminal
6 Procedure, as added by this Act, apply only to the prosecution of an
7 offense committed on or after the effective date of this Act. The
8 prosecution of an offense committed before the effective date of
9 this Act is governed by the law in effect on the date the offense was
10 committed, and the former law is continued in effect for that
11 purpose. For purposes of this subsection, an offense was committed
12 before the effective date of this Act if any element of the offense
13 occurred before that date.

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

17 (c) Section 552.1082, Government Code, as added by this Act,
18 applies only to a request for public information received on or
19 after the effective date of this Act. A request for public
20 information received before the effective date of this Act is
21 governed by the law in effect on the date the request was received,
22 and the former law is continued in effect for that purpose.

23 SECTION 8. This Act takes effect September 1, 2023.