

By: Leach

H.B. No. 1741

A BILL TO BE ENTITLED

1 AN ACT

2 relating to creating a criminal offense for the unauthorized
3 disclosure of non-public judicial opinions and judicial work
4 product.

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

6 SECTION 1. Chapter 21, Government Code, is amended by
7 adding Section 21.013 to read as follows:

8 Sec. 21.013. CONFIDENTIALITY OF JUDICIAL WORK PRODUCT;
9 CRIMINAL OFFENSE. (a) In this section:

10 (1) "Judicial work product" means written,
11 electronic, or oral material prepared or communications made in the
12 course of an adjudicatory proceeding before a court determining
13 legal rights, powers, duties, or privileges. The term includes all
14 drafts of opinions or orders and memoranda of law.

15 (2) "Non-public judicial work product" means:

16 (A) any written or electronic judicial work
17 product other than documents filed with the clerk of a court for
18 release to the public;

19 (B) any document or recording filed under seal by
20 or with a court containing or relating to judicial work product; or

21 (C) any oral statement relating to judicial work
22 product made in a closed session of a court or in judicial chambers.

23 (b) This section applies to:

24 (1) a court established under Section 1, Article V,

1 Texas Constitution, other than a commissioners court; and

2 (2) a court subject to this subtitle.

3 (c) A justice or judge of a court shall comply with supreme
4 court rules governing the confidentiality of non-public judicial
5 work product.

6 (d) A person, other than a justice or judge, who is involved
7 in crafting an opinion or decision for an adjudicatory proceeding,
8 including a court staff attorney, court clerk, or law clerk, shall
9 maintain the confidentiality of all non-public judicial work
10 product in accordance with supreme court rules.

11 (e) A person, other than a justice or judge, with access to
12 non-public judicial work product commits an offense if the person
13 knowingly discloses, wholly or partly, the contents of any
14 non-public judicial work product to a person who is not a justice,
15 judge, court staff attorney, court clerk, law clerk, employee of an
16 agency established under Chapter 71 or 72, or other court staff
17 routinely involved in crafting an opinion or decision for an
18 adjudicatory proceeding.

19 (f) An offense under this section is a Class A misdemeanor.

20 (g) It is a defense to prosecution under this section that
21 the disclosure of the non-public judicial work product is
22 authorized:

23 (1) in writing by the justice or judge for whom the
24 work product is prepared; or

25 (2) under supreme court rules.

26 SECTION 2. As soon as practicable after the effective date
27 of this Act, the Texas Supreme Court shall adopt any rules necessary

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1 to implement Section 21.013, Government Code, as added by this Act.

2 SECTION 3. This Act takes effect September 1, 2023.