

By: Miles

S.B. No. 185

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the retention and required disclosure under the public  
3 information law of certain complaints alleging official  
4 oppression.

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

6 SECTION 1. Subchapter J, Chapter 143, Local Government  
7 Code, is amended by adding Section 143.364 to read as follows:

8 Sec. 143.364. RETENTION OF COMPLAINT AGAINST POLICE  
9 OFFICER. (a) A municipal department employing a police officer  
10 against whom is filed a complaint alleging conduct constituting  
11 official oppression under Section 39.03, Penal Code, shall:

12 (1) retain the complaint until at least the fifth  
13 anniversary of the date the police officer's employment with the  
14 municipality ends; and

15 (2) create an abstract of the complaint to retain  
16 indefinitely once the original complaint is destroyed.

17 (b) A discretionary exception to required disclosure  
18 provided by Chapter 552, Government Code, does not apply to a  
19 complaint or abstract described by Subsection (a).

20 (c) This section prevails over:

21 (1) any other provision of law; and

22 (2) any conflicting provision in an agreement entered  
23 into under this subchapter.

24 (d) This section does not prohibit the employing municipal

1 department from withholding information contained in a complaint or  
2 abstract that is confidential under Section 552.117 or 552.1175,  
3 Government Code.

4 (e) This section does not prohibit a person from asserting a  
5 privacy interest in withholding a complaint or abstract.

6 SECTION 2. Subchapter A, Chapter 174, Local Government  
7 Code, is amended by adding Section 174.009 to read as follows:

8 Sec. 174.009. RETENTION OF COMPLAINT AGAINST POLICE  
9 OFFICER. (a) A department of a political subdivision employing a  
10 police officer against whom is filed a complaint alleging conduct  
11 constituting official oppression under Section 39.03, Penal Code,  
12 shall:

13 (1) retain the complaint until at least the fifth  
14 anniversary of the date the police officer's employment with the  
15 political subdivision ends; and

16 (2) create an abstract of the complaint to retain  
17 indefinitely once the original complaint is destroyed.

18 (b) A complaint or abstract described by Subsection (a) is  
19 public information and is not excepted from required disclosure by  
20 Section 552.108, Government Code.

21 (c) This section prevails over:

22 (1) any other provision of law; and

23 (2) any conflicting provision in a collective  
24 bargaining agreement entered into under this chapter.

25 SECTION 3. Section 552.108(c), Government Code, is amended  
26 to read as follows:

27 (c) This section does not:

1           (1) except from the requirements of Section 552.021  
2 information that is basic information about an arrested person, an  
3 arrest, or a crime; or

4           (2) apply to a complaint or abstract described by  
5 Section 143.364 or 174.009, Local Government Code, or Section  
6 614.024 of this code that a law enforcement agency or prosecutor  
7 uses in the detection, investigation, or prosecution of a crime.

8           SECTION 4. Subchapter B, Chapter 614, Government Code, is  
9 amended by adding Section 614.024 to read as follows:

10           Sec. 614.024. RETENTION BY MUNICIPALITIES OF COMPLAINT  
11 AGAINST PEACE OFFICER. (a) If a municipality receives a complaint  
12 against a peace officer employed by the municipality alleging  
13 conduct constituting official oppression under Section 39.03,  
14 Penal Code, the municipality shall:

15           (1) retain the complaint until at least the fifth  
16 anniversary of the date the peace officer's employment with the  
17 municipality ends; and

18           (2) create an abstract of the complaint to retain  
19 indefinitely once the original complaint is destroyed.

20           (b) A discretionary exception to required disclosure  
21 provided by Chapter 552 does not apply to a complaint or abstract  
22 described by Subsection (a).

23           SECTION 5. Sections 143.364(c) and 174.009(c), Local  
24 Government Code, as added by this Act, apply only to a contract  
25 executed on or after the effective date of this Act. A contract  
26 executed before the effective date of this Act is governed by the  
27 law as it existed on the date the contract was executed, and the

1 former law is continued in effect for that purpose.

2           SECTION 6. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2023.