

BILL ANALYSIS

H.B. 1036
By: Ritter
Law Enforcement
Committee Report (Amended)

BACKGROUND AND PURPOSE

Under current law, evidence of a communication between a person and a crime stoppers organization is inadmissible in court. In a criminal case, the court may review materials related to the tip and provide the defendant with information that may be useful as evidence in his case. However, there is no effective access to the same information in a civil proceeding. The result is that a person who is charged with a crime based on a crime stoppers tip and is acquitted is not able to use evidence from the tip to establish his or her cause of action in a subsequent civil suit for such claims as malicious prosecution, defamation, or negligence arising from the crime stoppers tip. House Bill 1036 provides limited access to evidence from a crime stoppers tip to a plaintiff in a civil suit. It also establishes immunity from civil liability for persons who make or receive those reports acting in good faith.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. House Bill 1036 amends Section 414.008 of the Government Code, adding an exception for certain civil suits to the general rule that records of a crime stoppers organization may not be compelled before a court. Under the bill, the plaintiff must have been charged with or convicted of a criminal offense based at least partially on the report, and the charges were dismissed, plaintiff was acquitted, or the charges overturned in order to compel production of the crime stoppers organization's records. The plaintiff must also file a motion alleging that without the evidence contained therein, the plaintiff will be unable to establish a cause of action and establish a prima facie case that the claim is based on injuries from the criminal charge caused in connection with the crime stoppers report.

The bill provides that a court shall conduct a private inspection of the materials and provide the plaintiff with only the information necessary to the plaintiff's cause of action and not the identity of the source. The court must return the undisclosed materials to the crime stoppers organization and that organization must store them at least until the first anniversary of the date the plaintiff's right to appeal in a civil suit has passed.

SECTION 2. House Bill 1036 amends Chapter 414 of the Government Code to provide immunity from civil liability to persons acting in good faith who communicate a tip to a crime stoppers organization or, in the course of their duties or functions, receive, forward, or act upon such a tip.

SECTION 3. The change in law made by this Act applies only to a civil cause of action that is filed on or after September 1, 2003, regardless of when the wrongful conduct occurred. The former law is in effect for actions filed before the effective date.

EFFECTIVE DATE

This Act takes effect September 1, 2003.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 amends Chapter 414 of the Government Code by adding Section 414.013, which provides immunity from civil liability to persons who communicate a tip to a crime stoppers organization or, in the course of their duties or functions, receive, forward, or act upon such a tip. However, immunity from civil liability does not apply if the communication or act or omission was intentionally, willfully, or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.