

By: Ritter, et al.

H.B. No. 1036

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the confidentiality of certain reports of criminal
3 activity and to immunity from civil liability for certain persons
4 making or receiving those reports.

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

6 SECTION 1. Section 414.008, Government Code, is amended to
7 read as follows:

8 Sec. 414.008. PRIVILEGED INFORMATION. (a) Except as
9 otherwise provided by this section, evidence [~~Evidence~~] of a
10 communication between a person submitting a report of a criminal
11 act to the council or a crime stoppers organization and the person
12 who accepted the report on behalf of the council or organization is
13 not admissible in a court or an administrative proceeding.

14 (b) Records of the council or a crime stoppers organization
15 concerning a report of criminal activity may not be compelled to be
16 produced before a court or other tribunal except on a the motion:

17 (1) filed in a criminal trial court by [~~of~~] a
18 [~~criminal~~] defendant who alleges [~~to the court in which the offense~~
19 ~~is being tried~~] that the records or report contains evidence that is
20 exculpatory to the defendant in the trial of that offense; or

21 (2) filed in a civil case by a plaintiff who alleges
22 that denial of access to the records concerning the report of
23 criminal activity abrogates any part of a cognizable common law
24 cause of action, if the plaintiff alleging abrogation:

1 (A) was charged with or convicted of a criminal
2 offense based at least partially on the report and the charges were
3 dismissed, the plaintiff was acquitted, or the conviction was
4 overturned, as applicable; and

5 (B) in the motion establishes a prima facie case
6 that the plaintiff's abrogated claim is based on injuries from the
7 criminal charge or conviction caused by the wrongful acts of
8 another performed in connection with the report.

9 (c) On motion of a movant [~~defendant~~] under Subsection (b),
10 the court may subpoena the records or report. The court shall
11 conduct an in camera inspection of materials produced under
12 subpoena to determine whether the materials contain:

13 (1) evidence that is exculpatory to the defendant; or

14 (2) information necessary to a plaintiff as described
15 by Subsection (b)(2).

16 (d) If the court determines that the materials produced
17 contain evidence that is exculpatory to the defendant or
18 information necessary to a plaintiff as described by Subsection
19 (b)(2), the court shall present the evidence to the movant
20 [~~defendant~~] in a form that does not disclose the identity of the
21 person who was the source of the evidence, unless the state or
22 federal constitution requires the disclosure of that person's
23 identity. The court shall execute an affidavit accompanying the
24 disclosed materials swearing that, in the opinion of the court, the
25 materials disclosed represent the [~~exculpatory~~] evidence the
26 movant [~~defendant~~] is entitled to receive under this section.

27 (e) The court shall return to the council or crime stoppers

1 organization the materials that are produced under this section but
2 not disclosed to the movant [~~defendant~~]. The council or crime
3 stoppers organization shall store the materials at least until the
4 first anniversary of the following appropriate date:

5 (1) [~~until the conclusion of the criminal trial and~~]
6 the date of expiration of the time for all direct appeals in a
7 criminal [~~the~~] case; or

8 (2) the date a plaintiff's right to appeal in a civil
9 case is exhausted.

10 SECTION 2. Chapter 414, Government Code, is amended by
11 adding Section 414.013 to read as follows:

12 Sec. 414.013. IMMUNITY FROM CIVIL LIABILITY. The following
13 persons acting in good faith are immune from civil liability for any
14 act or omission leading to the arrest of, the filing of charges
15 against, or the conviction of a person for a criminal offense,
16 regardless of whether the person is later exonerated of that
17 offense:

18 (1) a person who communicates to the council or a crime
19 stoppers organization a report of criminal activity; and

20 (2) a person who in the course and scope of the
21 person's duties or functions receives, forwards, or acts on a
22 report of criminal activity communicated to the council or a crime
23 stoppers organization.

24 SECTION 3. (a) This Act takes effect September 1, 2003.

25 (b) The change in law made by this Act applies only to a
26 civil cause of action that is filed on or after September 1, 2003,
27 regardless of when the alleged wrongful conduct giving rise to the

1 cause of action occurred. An action that was filed before the
2 effective date of this Act is governed by the law applicable to the
3 action at the time the action was filed, and that law is continued
4 in effect for that purpose.

COMMITTEE AMENDMENT NO. 1

Amend H.B. 1036, SECTION 2, by striking new Section 414.013 and replacing it with new Section 414.013 to read as follows:

Sec. 414.013. IMMUNITY FROM CIVIL LIABILITY. (a) A person who communicates to the council or a crime stoppers organization a report of criminal activity that leads to the arrest of, the filing of charges against, or the conviction of a person for a criminal offense, is immune from civil liability for damages resulting from the communication unless the communication was intentionally willfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

(b) A person who in the course and scope of the person's duties or functions receives, forwards, or acts on a report of criminal activity communicated to the council or a crime stoppers organization is immune from civil liability for damages resulting from an act or omission in the performance of the person's duties or functions unless the act or omission was intentional, willfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

Hegar