

1-1 By: Ritter, et al. (Senate Sponsor - Shapiro) H.B. No. 1036
1-2 (In the Senate - Received from the House May 7, 2003;
1-3 May 9, 2003, read first time and referred to Committee on Criminal
1-4 Justice; May 23, 2003, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the confidentiality of certain reports of criminal
1-9 activity and to immunity from civil liability for certain persons
1-10 making or receiving those reports.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 414.008, Government Code, is amended to
1-13 read as follows:

1-14 Sec. 414.008. PRIVILEGED INFORMATION. (a) Except as
1-15 otherwise provided by this section, evidence [~~Evidence~~] of a
1-16 communication between a person submitting a report of a criminal
1-17 act to the council or a crime stoppers organization and the person
1-18 who accepted the report on behalf of the council or organization is
1-19 not admissible in a court or an administrative proceeding.

1-20 (b) Records of the council or a crime stoppers organization
1-21 concerning a report of criminal activity may not be compelled to be
1-22 produced before a court or other tribunal except on a [~~the~~] motion:

1-23 (1) filed in a criminal trial court by [~~of~~] a
1-24 [~~criminal~~] defendant who alleges [~~to the court in which the offense~~
1-25 ~~is being tried~~] that the records or report contains evidence that is
1-26 exculpatory to the defendant in the trial of that offense; or

1-27 (2) filed in a civil case by a plaintiff who alleges
1-28 that denial of access to the records concerning the report of
1-29 criminal activity abrogates any part of a cognizable common law
1-30 cause of action, if the plaintiff alleging abrogation:

1-31 (A) was charged with or convicted of a criminal
1-32 offense based at least partially on the report and the charges were
1-33 dismissed, the plaintiff was acquitted, or the conviction was
1-34 overturned, as applicable; and

1-35 (B) in the motion establishes a prima facie case
1-36 that the plaintiff's abrogated claim is based on injuries from the
1-37 criminal charge or conviction caused by the wrongful acts of
1-38 another performed in connection with the report.

1-39 (c) On motion of a movant [~~defendant~~] under Subsection (b),
1-40 the court may subpoena the records or report. The court shall
1-41 conduct an in camera inspection of materials produced under
1-42 subpoena to determine whether the materials contain:

1-43 (1) evidence that is exculpatory to the defendant; or

1-44 (2) information necessary to a plaintiff as described
1-45 by Subsection (b)(2).

1-46 (d) If the court determines that the materials produced
1-47 contain evidence that is exculpatory to the defendant or
1-48 information necessary to a plaintiff as described by Subsection
1-49 (b)(2), the court shall present the evidence to the movant
1-50 [~~defendant~~] in a form that does not disclose the identity of the
1-51 person who was the source of the evidence, unless the state or
1-52 federal constitution requires the disclosure of that person's
1-53 identity. The court shall execute an affidavit accompanying the
1-54 disclosed materials swearing that, in the opinion of the court, the
1-55 materials disclosed represent the [~~exculpatory~~] evidence the
1-56 movant [~~defendant~~] is entitled to receive under this section.

1-57 (e) The court shall return to the council or crime stoppers
1-58 organization the materials that are produced under this section but
1-59 not disclosed to the movant [~~defendant~~]. The council or crime
1-60 stoppers organization shall store the materials at least until the
1-61 first anniversary of the following appropriate date:

1-62 (1) [~~until the conclusion of the criminal trial and~~
1-63 ~~the date of expiration of the time for all direct appeals in a~~
1-64 ~~criminal~~] the [~~the~~] case; or

2-1 (2) the date a plaintiff's right to appeal in a civil
2-2 case is exhausted.

2-3 SECTION 2. Chapter 414, Government Code, is amended by
2-4 adding Section 414.013 to read as follows:

2-5 Sec. 414.013. IMMUNITY FROM CIVIL LIABILITY. (a) A person
2-6 who communicates to the council or a crime stoppers organization a
2-7 report of criminal activity that leads to the arrest of, the filing
2-8 of charges against, or the conviction of a person for a criminal
2-9 offense is immune from civil liability for damages resulting from
2-10 the communication unless the communication was intentionally,
2-11 wilfully, or wantonly negligent or done with conscious indifference
2-12 or reckless disregard for the safety of others.

2-13 (b) A person who in the course and scope of the person's
2-14 duties or functions receives, forwards, or acts on a report of
2-15 criminal activity communicated to the council or a crime stoppers
2-16 organization is immune from civil liability for damages resulting
2-17 from an act or omission in the performance of the person's duties or
2-18 functions unless the act or omission was intentional, wilfully or
2-19 wantonly negligent, or done with conscious indifference or reckless
2-20 disregard for the safety of others.

2-21 SECTION 3. (a) This Act takes effect September 1, 2003.

2-22 (b) The change in law made by this Act applies only to a
2-23 civil cause of action that is filed on or after September 1, 2003,
2-24 regardless of when the alleged wrongful conduct giving rise to the
2-25 cause of action occurred. An action that was filed before the
2-26 effective date of this Act is governed by the law applicable to the
2-27 action at the time the action was filed, and that law is continued
2-28 in effect for that purpose.

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