

By: Carona

S.B. No. 331

A BILL TO BE ENTITLED

AN ACT

1
2 relating to access to certain information under the public
3 information law concerning public officers and employees.

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

5 SECTION 1. Section 552.008, Government Code, is amended by
6 adding Subsections (b-1) and (b-2) to read as follows:

7 (b-1) A member, committee, or agency of the legislature
8 required by a governmental body to sign a confidentiality agreement
9 under Subsection (b) may seek a decision as provided by Subsection
10 (b-2) about whether the information covered by the confidentiality
11 agreement is confidential under law. A confidentiality agreement
12 signed under Subsection (b) is void to the extent that the agreement
13 covers information that is finally determined under Subsection
14 (b-2) to not be confidential under law.

15 (b-2) The member, committee, or agency of the legislature
16 may seek a decision from the attorney general about the matter. The
17 attorney general by rule shall establish procedures and deadlines
18 for receiving information necessary to decide the matter and briefs
19 from the requestor, the governmental body, and any other interested
20 person. The attorney general shall promptly render a decision
21 requested under this subsection, determining whether the
22 information covered by the confidentiality agreement is
23 confidential under law, not later than the 45th business day after
24 the date the attorney general received the request for a decision

1 under this subsection. The attorney general shall issue a written
2 decision on the matter and provide a copy of the decision to the
3 requestor, the governmental body, and any interested person who
4 submitted necessary information or a brief to the attorney general
5 about the matter. The requestor or the governmental body may appeal
6 a decision of the attorney general under this subsection to a Travis
7 County district court. A person may appeal a decision of the
8 attorney general under this subsection to a Travis County district
9 court if the person claims a proprietary interest in the
10 information affected by the decision or a privacy interest in the
11 information that a confidentiality law or judicial decision is
12 designed to protect.

13 SECTION 2. Section 552.024, Government Code, is amended to
14 read as follows:

15 Sec. 552.024. PERSONAL INFORMATION OF EMPLOYEES AND
16 OFFICIALS [~~ELECTING TO DISCLOSE ADDRESS AND TELEPHONE NUMBER~~].

17 (a) Information [~~Each employee or official of a governmental body~~
18 ~~and each former employee or official of a governmental body shall~~
19 ~~choose whether to allow public access to the information] in the
20 custody of a [the] governmental body that relates to the [person's]
21 home address, home telephone number, or social security number of
22 an employee or official of the governmental body or of a former
23 employee or official of the governmental body, or that reveals
24 whether the person has family members, is excepted from the
25 requirements of Section 552.021.~~

26 (b) [~~Each employee and official and each former employee and~~
27 ~~official shall state that person's choice under Subsection (a) to~~

1 ~~the main personnel officer of the governmental body in a signed~~
2 ~~writing not later than the 14th day after the date on which:~~

3 ~~[(1) the employee begins employment with the~~
4 ~~governmental body;~~

5 ~~[(2) the official is elected or appointed; or~~

6 ~~[(3) the former employee or official ends service with~~
7 ~~the governmental body.~~

8 ~~[(c) If the employee or official or former employee or~~
9 ~~official chooses not to allow public access to the information, the~~
10 ~~information is protected under Subchapter C.~~

11 ~~[(d) If an employee or official or a former employee or~~
12 ~~official fails to state the person's choice within the period~~
13 ~~established by this section, the information is subject to public~~
14 ~~access.~~

15 ~~[(e)]~~ An employee or official or former employee or official
16 of a governmental body who wishes to ~~[close or]~~ open public access
17 to the information may request in writing that the main personnel
18 officer of the governmental body ~~[close or]~~ open access.

19 ~~[(f) This section does not apply to a person to whom Section~~
20 ~~552.1175 applies.]~~

21 SECTION 3. Subsection (a), Section 552.117, Government
22 Code, is amended to read as follows:

23 (a) Information is excepted from the requirements of
24 Section 552.021 if it is information that relates to the home
25 address, home telephone number, or social security number of the
26 following person or that reveals whether the person has family
27 members:

1 (1) ~~[a current or former official or employee of a~~
2 ~~governmental body, except as otherwise provided by Section 552.024,~~

3 ~~(2)]~~ a peace officer as defined by Article 2.12, Code
4 of Criminal Procedure, or a security officer commissioned under
5 Section 51.212, Education Code, regardless of whether the officer
6 complies with Section ~~[552.024 or]~~ 552.1175~~[, as applicable];~~

7 (2) ~~(3)]~~ a current or former employee of the Texas
8 Department of Criminal Justice or of the predecessor in function of
9 the department or any division of the department, regardless of
10 whether the current or former employee complies with Section
11 552.1175;

12 (3) ~~(4)]~~ a peace officer as defined by Article 2.12,
13 Code of Criminal Procedure, or other law, a reserve law enforcement
14 officer, a commissioned deputy game warden, or a corrections
15 officer in a municipal, county, or state penal institution in this
16 state who was killed in the line of duty, regardless of whether the
17 deceased complied with Section ~~[552.024 or]~~ 552.1175;

18 (4) ~~(5)]~~ a commissioned security officer as defined
19 by Section 1702.002, Occupations Code, regardless of whether the
20 officer complies with Section ~~[552.024 or]~~ 552.1175~~[, as~~
21 ~~applicable]; or~~

22 (5) ~~(6)]~~ an officer or employee of a community
23 supervision and corrections department established under Chapter
24 76 who performs a duty described by Section 76.004(b), regardless
25 of whether the officer or employee complies with Section ~~[552.024~~
26 ~~or]~~ 552.1175.

27 SECTION 4. Section 552.138, Government Code, is amended to

1 read as follows:

2 Sec. 552.138. EXCEPTION: FAMILY VIOLENCE [~~SHELTER~~] CENTER
3 AND SEXUAL ASSAULT PROGRAM INFORMATION. (a) In this section:

4 (1) "Family violence [~~shelter~~] center" has the meaning
5 assigned by Section 51.002, Human Resources Code.

6 (2) "Sexual assault program" has the meaning assigned
7 by Section 420.003.

8 (b) Information maintained by a family violence [~~shelter~~]
9 center or sexual assault program is excepted from the requirements
10 of Section 552.021 if it is information that relates to:

11 (1) the home address, home telephone number, or social
12 security number of an employee or a volunteer worker of a family
13 violence [~~shelter~~] center or a sexual assault program[~~, regardless~~
14 ~~of whether the employee or worker complies with Section 552.024~~];

15 (2) the location or physical layout of a family
16 violence [~~shelter~~] center;

17 (3) the name, home address, home telephone number, or
18 numeric identifier of a current or former client of a family
19 violence [~~shelter~~] center or sexual assault program;

20 (4) the provision of services, including counseling
21 and sheltering, to a current or former client of a family violence
22 [~~shelter~~] center or sexual assault program;

23 (5) the name, home address, or home telephone number
24 of a private donor to a family violence [~~shelter~~] center or sexual
25 assault program; or

26 (6) the home address or home telephone number of a
27 member of the board of directors or the board of trustees of a

1 family violence [~~shelter~~] center or sexual assault program[~~7~~
2 ~~regardless of whether the board member complies with Section~~
3 ~~552.024~~].

4 SECTION 5. Subchapter C, Chapter 552, Government Code, is
5 amended by adding Section 552.150 to read as follows:

6 Sec. 552.150. EXCEPTION: INFORMATION THAT COULD COMPROMISE
7 SAFETY OF PUBLIC OFFICER OR EMPLOYEE. (a) Information in the
8 custody of a governmental body that relates to an employee or
9 officer of the governmental body is excepted from the requirements
10 of Section 552.021 if:

11 (1) it is information that, if disclosed under the
12 specific circumstances pertaining to the individual, could
13 reasonably be expected to compromise the safety of the individual,
14 such as information that describes or depicts the likeness of the
15 individual, information stating the times that the individual
16 arrives at or departs from work, a description of the individual's
17 automobile, or the location where the individual works or parks;
18 and

19 (2) the employee or officer applies in writing to the
20 governmental body's officer for public information to have the
21 information withheld from public disclosure under this section and
22 includes in the application:

23 (A) a description of the information; and

24 (B) the specific circumstances pertaining to the
25 individual that demonstrate why disclosure of the information could
26 reasonably be expected to compromise the safety of the individual.

27 (b) On receiving a written request for information

1 described in an application submitted under Subsection (a)(2), the
2 officer for public information shall:

3 (1) request a decision from the attorney general in
4 accordance with Section 552.301 regarding withholding the
5 information; and

6 (2) include a copy of the application submitted under
7 Subsection (a)(2) with the request for the decision.

8 (c) It is presumed that disclosure of information that
9 pertains to a biological agent or toxin identified or listed as a
10 select agent under federal law and to which access is restricted
11 under federal law would compromise the safety of an individual
12 authorized to possess, use, or access the information.

13 (d) This section expires September 1, 2013.

14 SECTION 6. The changes in law made by this Act apply in
15 relation to a request for information made under Chapter 552,
16 Government Code, before, on, or after the effective date of the
17 relevant provisions of this Act.

18 SECTION 7. Subsections (b-1) and (b-2), Section 552.008,
19 Government Code, as added by this Act, take effect September 1,
20 2010.

21 SECTION 8. Except as otherwise provided by this Act, this
22 Act takes effect immediately if it receives a vote of two-thirds of
23 all the members elected to each house, as provided by Section 39,
24 Article III, Texas Constitution. If this Act does not receive the
25 vote necessary for immediate effect, then except as otherwise
26 provided by this Act, this Act takes effect September 1, 2009.