

BILL ANALYSIS

Senate Research Center

S.B. 1512
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Open Government
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1512 amends what must be disclosed under the Texas Public Information Act to exclude certain crime scene pictures. Specifically, pictures that depict a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia are not required to be disclosed under an open records request.

While credentialed newspapers in Texas are unlikely to reproduce these pictures in the paper, the problem lies in ordinary people being able to request the pictures and then reproducing them on the Internet. This makes it very difficult for the victims' families to move on and heal after losing a loved one.

There are several exceptions as to who can view and reproduce the pictures. First, there is an exception for a victim's next of kin, or for someone who has permission from the victim's next of kin. Also, a defendant in the case, or the defendant's representative, may view and reproduce the pictures as necessary for the criminal case. There are also exceptions for credentialed members of the press as well as those associated with a credentialed university who want to view or reproduce the pictures. Finally, a judge can order the release of the pictures if disclosure is in the public's best interest.

S.B. 1512 amends current law relating to the confidentiality of certain crime scene photographs and video recordings.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.1085, as follows:

Sec. 552.1085. CONFIDENTIALITY OF SENSITIVE CRIME SCENE IMAGE. (a) Defines "deceased person's next of kin," "defendant," "expressive work," "local governmental entity," "public or private institution of higher education," "sensitive crime scene image," and "state agency" in this section.

(b) Provides that for purposes of this section, an Internet website, the primary function of which is not the delivery of news, information, current events, or other matters of public interest or concern, is not an expressive work.

(c) Provides that a sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 (Availability of Public Information) and a governmental body is prohibited from permitting a person to view or copy the image except as provided by this section. Provides that this section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

(d) Authorizes the following persons to view or copy information that constitutes a sensitive crime scene image from a governmental body, notwithstanding Subsection (c) and subject to Subsection (e):

- (1) the deceased person's next of kin;
- (2) a person authorized in writing by the deceased person's next of kin;
- (3) a defendant or the defendant's attorney;
- (4) a person who establishes to the governmental body an interest in a sensitive crime scene image that is based on, connected with, or in support of the creation, in any medium, of an expressive work;
- (5) a person performing bona fide research sponsored by a public or private institution of higher education with approval of a supervisor of the research or a supervising faculty member;
- (6) a state agency;
- (7) an agency of the federal government; or
- (8) a local governmental entity.

(e) Provides that this section does not prohibit a governmental body from asserting an exception to disclosure of a sensitive crime scene image to a person identified in Subsection (d) on the grounds that the image is excepted from the requirements of Section 552.021 under another provision of this chapter or another law.

(f) Requires the governmental body, not later than the 10th business day after the date a governmental body receives a request for a sensitive crime scene image from a person described by Subsection (d)(4) or (5), to notify the deceased person's next of kin of the request in writing. Requires that the notice be sent to the next of kin's last known address.

(g) Requires a governmental body that receives a request for information that constitutes a sensitive crime scene image to allow a person described in Subsection (d) to view or copy the image not later than the 10th business day after the date the governmental body receives the request unless the governmental body files a request for an attorney general decision under Subchapter G (Attorney General Decisions) regarding whether an exception to public disclosure applies to the information.

SECTION 2. (a) Provides that the change in law made by this Act applies only to the disclosure or copying of a sensitive crime scene image on or after September 1, 2013.

(b) Provides that the disclosure or copying of a sensitive crime scene image before September 1, 2013, is covered by the law in effect when the image was disclosed or copied, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.