

By: Sanford

H.B. No. 853

Substitute the following for H.B. No. 853:

By: Dutton

C.S.H.B. No. 853

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of information identifying children who are victims of certain offenses; creating an offense.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 57A to read as follows:

CHAPTER 57A. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF CHILD VICTIMS

Art. 57A.01. DEFINITIONS. In this chapter:

(1) "Child victim" means a person who while younger than 17 years of age was the subject of an offense or an attempted offense under the Penal Code.

(2) "Name" means the legal name of a person.

(3) "Pseudonym" means a set of initials or a fictitious name chosen by the parent or guardian of a child victim to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings.

(4) "Public servant" has the meaning assigned by Section 1.07(a), Penal Code.

Art. 57A.02. CONFIDENTIALITY OF FILES AND RECORDS. (a) The office of the attorney general shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a child victim.

1       (b) A parent or guardian of a child victim may choose a  
2 pseudonym to be used instead of the victim's name to designate the  
3 victim in all public files and records concerning the offense,  
4 including police summary reports, press releases, and records of  
5 judicial proceedings. A parent or guardian who elects to use a  
6 pseudonym as provided by this article must complete a pseudonym  
7 form developed under this article and return the form to the law  
8 enforcement agency investigating the offense.

9       (c) A parent or guardian of a child victim who completes and  
10 returns a pseudonym form to the law enforcement agency  
11 investigating the offense may not be required to disclose the  
12 victim's name, address, and telephone number in connection with the  
13 investigation or prosecution of the offense.

14       (d) A completed and returned pseudonym form is confidential  
15 and may not be disclosed to any person other than a defendant in the  
16 case or the defendant's attorney, except on an order of a court of  
17 competent jurisdiction. The court finding required by Subsection  
18 (g) is not required to disclose the confidential pseudonym form to  
19 the defendant in the case or to the defendant's attorney.

20       (e) If a parent or guardian of a child victim completes and  
21 returns a pseudonym form to a law enforcement agency under this  
22 article, the law enforcement agency receiving the form shall:

23               (1) remove the victim's name and substitute the  
24 pseudonym for the name on all reports, files, and records in the  
25 agency's possession;

26               (2) notify the attorney for the state of the pseudonym  
27 and that a parent or guardian of the victim has elected that the

1 victim be designated by the pseudonym; and

2 (3) maintain the form in a manner that protects the  
3 confidentiality of the information contained on the form.

4 (f) An attorney for the state who receives notice that a  
5 parent or guardian of a child victim has elected that the victim be  
6 designated by a pseudonym shall ensure that the victim is  
7 designated by the pseudonym in all legal proceedings concerning the  
8 offense.

9 (g) A court of competent jurisdiction may order the  
10 disclosure of a child victim's name, address, and telephone number  
11 only if the court finds that the information is essential in the  
12 trial of the defendant for the offense or the identity of the victim  
13 is in issue.

14 (h) Except as required or permitted by other law or by court  
15 order, a public servant or other person who has access to or obtains  
16 the name, address, telephone number, or other identifying  
17 information of a child victim may not release or disclose the  
18 identifying information to any person who is not assisting in the  
19 investigation, prosecution, or defense of the case. This  
20 subsection does not apply to the release or disclosure of a child  
21 victim's identifying information by:

22 (1) the victim; or

23 (2) the parent or guardian of the victim.

24 Art. 57A.03. OFFENSE. (a) Unless the disclosure is  
25 required or permitted by other law or by court order, a public  
26 servant or other person commits an offense if the person:

27 (1) has access to or obtains the name, address, or

1 telephone number of a child victim; and  
2 (2) knowingly discloses the name, address, or  
3 telephone number of the victim to any person who is not assisting in  
4 the investigation or prosecution of the offense or to any person  
5 other than the defendant, the defendant's attorney, or a person  
6 specified in an order of a court of competent jurisdiction.

7 (b) It is an affirmative defense to prosecution under  
8 Subsection (a) that the actor is:

9 (1) the child victim; or

10 (2) the parent or guardian of the child victim.

11 (c) An offense under this article is a Class C misdemeanor.

12 SECTION 2. Section 51.17(h), Family Code, is amended to  
13 read as follows:

14 (h) Articles 57.01, ~~and~~ 57.02, 57A.01, and 57A.02, Code of  
15 Criminal Procedure, relating to the use of a pseudonym by a victim  
16 in a criminal case, apply in a proceeding held under this title.

17 SECTION 3. Not later than October 1, 2015, the office of the  
18 attorney general shall develop and distribute to all law  
19 enforcement agencies of the state a pseudonym form to record the  
20 name, address, telephone number, and pseudonym of a child victim as  
21 required by Article 57A.02, Code of Criminal Procedure, as added by  
22 this Act.

23 SECTION 4. This Act takes effect September 1, 2015.