

By: Phillips, Fallon

H.B. No. 2991

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of files related to complaints to
and investigations by the Texas Commission on Law Enforcement.

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

SECTION 1. Section 1701.202(b), Occupations Code, is
amended to read as follows:

(b) On request, a license holder may obtain information
regarding a complaint made against the license holder under this
chapter, including a complete copy of the complaint file, but not
including information that is an attorney-client communication, an
attorney work product, or other information protected by a
privilege recognized by the Texas Rules of Civil Procedure or the
Texas Rules of Evidence. On receipt of a request under this
subsection, the commission shall provide the requested information
in a timely manner to allow the license holder time to respond to
the complaint.

SECTION 2. Subchapter E, Chapter 1701, Occupations Code, is
amended by adding Section 1701.2031 to read as follows:

Sec. 1701.2031. CONFIDENTIALITY OF INVESTIGATION MATERIAL.

(a) Information or material, including an investigation file, is
confidential and not subject to disclosure under Chapter 552,
Government Code, if the information or material is prepared or
compiled by the commission in connection with a complaint or an
investigation of any person subject to the jurisdiction of the

1 commission.

2 (b) Notwithstanding Subsection (a), information or material
3 prepared or compiled by the commission in connection with a
4 complaint or an investigation may be disclosed to:

5 (1) the respondent of the complaint;

6 (2) a person providing a service to the commission, an
7 expert or other witness, or an investigator, if the information is
8 necessary for preparation for, or a presentation in, a disciplinary
9 proceeding against a license holder, or a subsequent trial or
10 appeal taken from a disciplinary proceeding;

11 (3) a law enforcement agency;

12 (4) the State Office of Administrative Hearings;

13 (5) the office of the state auditor; or

14 (6) the commission, or a panel of the commission, for
15 use during any proceeding conducted by the State Office of
16 Administrative Hearings or in a subsequent trial or appeal of a
17 commission action or order.

18 (c) The release of information under Subsection (b) does not
19 constitute a release or disclosure for purposes of Section 552.007,
20 Government Code.

21 (d) The filing of formal charges by the commission against a
22 license holder, the nature of those charges, disciplinary
23 proceedings of the commission, and final disciplinary actions by
24 the commission, including warnings and reprimands, are not
25 confidential and are subject to disclosure in accordance with
26 Chapter 552, Government Code.

27 (e) After the investigation of a complaint in which the

1 commission imposes a disciplinary action against a license holder
2 under Section 1701.501, the information and materials prepared or
3 compiled by the commission regarding the complaint and
4 investigation of the license holder are not confidential and are
5 subject to disclosure in accordance with Chapter 552, Government
6 Code, not including any information that reveals or could reveal
7 the identity of a complainant or witness involved in the complaint,
8 investigation, or action.

9 SECTION 3. Section 1701.202, Occupations Code, as amended
10 by this Act, and Section 1701.2031, Occupations Code, as added by
11 this Act, apply only to a complaint filed or an investigation
12 commenced on or after the effective date of this Act. A complaint
13 filed or an investigation commenced before that date is governed by
14 the law in effect on the date the complaint was filed or the
15 investigation was commenced, and the former law is continued in
16 effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2017.