

By: Taylor of Collin

S.B. No. 515

A BILL TO BE ENTITLED

AN ACT

relating to the right of certain public officers to access public information, documents, records, and property; creating criminal offenses.

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

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 674 to read as follows:

CHAPTER 674. RIGHT OF ACCESS TO PUBLIC INFORMATION, BUILDINGS, AND
GROUNDS BY APPOINTED STATE BOARD MEMBERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 674.001. DEFINITIONS. In this chapter:

(1) "Board member" means a member of a body, including a board, commission, or committee:

(A) with more than one member;

(B) the members of which are appointed; and

(C) that supervises, manages, or controls a state governmental body.

(2) "Public information" has the meaning assigned by Section 552.002.

(3) "State governmental body" means a board, commission, department, committee, institution, agency, or office that is within the executive branch of state government. The term does not include a private entity that spends or is supported wholly or partly by public funds.

1 SUBCHAPTER B. RIGHT OF ACCESS TO INFORMATION

2 Sec. 674.051. RIGHT OF ACCESS TO INFORMATION. (a) This
3 section does not apply to public information that is confidential
4 or excepted from disclosure under:

- 5 (1) Section 552.0038;
- 6 (2) Section 552.108;
- 7 (3) Section 552.119; or
- 8 (4) Section 552.147.

9 (b) A board member has a right of access to information that
10 is public information of the state governmental body to which the
11 member is appointed.

12 Sec. 674.052. PROVISION OF INFORMATION. (a) A state
13 governmental body on request by a board member of the governmental
14 body shall provide public information to which the member has a
15 right of access, including confidential information or information
16 otherwise excepted from disclosure, to the member in accordance
17 with Chapter 552.

18 (b) A state governmental body, by providing public
19 information under this section that is confidential or otherwise
20 excepted from disclosure under law, does not waive or affect the
21 confidentiality of the information for purposes of state or federal
22 law or waive the right of the governmental body to assert exceptions
23 to disclosure of the information in the future.

24 Sec. 674.053. CONFIDENTIALITY AGREEMENT. (a) A state
25 governmental body shall require a board member requesting
26 information under this subchapter or a designated employee of the
27 requesting member who will view or handle information that is

1 received under this subchapter and that is confidential or
2 otherwise excepted from disclosure under law to sign a
3 confidentiality agreement that covers the information and requires
4 that:

5 (1) the information not be disclosed outside the
6 office of the requesting member;

7 (2) the information be labeled as confidential;

8 (3) the information be kept securely; or

9 (4) the number of copies made of the information or the
10 notes taken from the information that implicate the confidential
11 nature of the information be controlled, with all copies or notes
12 that are not destroyed or returned remaining confidential and
13 subject to the confidentiality agreement.

14 (b) An individual required to sign a confidentiality
15 agreement under Subsection (a) may seek a decision as provided by
16 Section 674.054 about whether the information covered by the
17 confidentiality agreement is confidential or otherwise excepted
18 from disclosure under law. A confidentiality agreement signed
19 under Subsection (a) is void to the extent that the agreement covers
20 information that is finally determined under Section 674.054 to not
21 be confidential or otherwise excepted from disclosure under law.

22 Sec. 674.054. DECISION BY ATTORNEY GENERAL REGARDING
23 CONFIDENTIALITY OR DISCLOSURE. (a) A board member requesting
24 information under this subchapter may seek a decision from the
25 attorney general about whether the information covered by a
26 confidentiality agreement under Section 674.053 is confidential or
27 otherwise excepted from disclosure under law.

1 (b) The attorney general by rule shall establish procedures
2 and deadlines for:

3 (1) receiving information necessary to determine
4 whether the information covered by a confidentiality agreement is
5 confidential or otherwise excepted from disclosure under law; and

6 (2) receiving briefs from a requesting board member, a
7 state governmental body, and any other interested person.

8 (c) The attorney general shall render the decision not later
9 than the 45th business day after the date the attorney general
10 receives the request for a decision. If the attorney general is
11 unable to issue the decision within the 45-day period, the attorney
12 general may during that 45-day period extend the period for issuing
13 the decision by an additional 10 business days by informing the
14 requesting board member, the state governmental body, and any
15 interested person who submitted necessary information or a brief to
16 the attorney general of the reason for the delay.

17 (d) The attorney general shall issue a written decision and
18 provide a copy of the decision to the requesting board member, the
19 state governmental body, and any interested person who submitted
20 necessary information or a brief to the attorney general under this
21 section.

22 (e) The requesting board member or the state governmental
23 body may appeal a decision of the attorney general under Subsection
24 (d) to a district court. A person may appeal a decision of the
25 attorney general under Subsection (d) to a district court if the
26 person claims a proprietary interest in the information affected by
27 the decision or a privacy interest in the information that a

1 confidentiality law or judicial decision is designed to protect.

2 Sec. 674.055. EFFECT OF SUBCHAPTER. (a) This subchapter
3 does not affect:

4 (1) the right of a board member to obtain information
5 under other law;

6 (2) the procedures under which the information is
7 obtained under other law; or

8 (3) the use that may be made of the information
9 obtained under other law.

10 (b) This subchapter does not grant authority to a state
11 governmental body to withhold information from a board member.

12 SUBCHAPTER C. RIGHT OF ACCESS TO PUBLIC PROPERTY

13 Sec. 674.101. RIGHT OF ACCESS TO PUBLIC PROPERTY.

14 (a) This section does not apply to:

15 (1) the personal office of:

16 (A) an elected or appointed officer; or

17 (B) an employee of the state governmental body;

18 (2) a room that contains a criminal forensic
19 laboratory; or

20 (3) a room in which criminal evidence is stored.

21 (b) Notwithstanding any other provision of law and except as
22 provided by Subsection (a), a board member has a right of access to
23 any building, structure, room, land, or body of water owned or
24 leased by or under the exclusive control of the state governmental
25 body to which the member is appointed.

26 Sec. 674.102. ACCESS TO PROPERTY. (a) A person who is
27 authorized to control access to property described by Section

1 674.101(b) shall provide a board member of the state governmental
2 body access to the property if the member:

3 (1) requests access to the property as a board member;

4 and

5 (2) presents an acceptable form of identification
6 described by Section 63.0101, Election Code.

7 (b) The authorized person must provide access to property
8 under this section not later than the 10th business day following
9 the date the request for access is made by the requesting board
10 member.

11 (c) A board member may not remove personal property from
12 property to which the member is provided access under this section.

13 SUBCHAPTER D. ENFORCEMENT

14 Sec. 674.151. DISTRIBUTION OR MISUSE OF CONFIDENTIAL
15 INFORMATION. (a) A person who is a recipient of confidential
16 information under Subchapter B commits an offense if the person
17 knowingly:

18 (1) permits inspection of the confidential
19 information by a person who is not authorized to inspect the
20 information; or

21 (2) discloses the confidential information to a person
22 who is not authorized to receive the information.

23 (b) An offense under this section is a misdemeanor
24 punishable by:

25 (1) a fine of not more than \$1,000;

26 (2) confinement in the county jail for not more than
27 six months; or

1 (3) both the fine and confinement.

2 (c) A violation under this section constitutes official
3 misconduct.

4 SECTION 2. Subtitle C, Title 6, Local Government Code, is
5 amended by adding Chapter 206 to read as follows:

6 CHAPTER 206. RIGHT OF ACCESS TO INFORMATION BY CERTAIN PUBLIC

7 OFFICERS

8 Sec. 206.001. DEFINITIONS. In this chapter:

9 (1) "County governmental body":

10 (A) means:

11 (i) a county commissioners court;

12 (ii) a deliberative body that has
13 rulemaking or quasi-judicial power and that is classified as a
14 department, agency, or political subdivision of a county;

15 (iii) a county board of school trustees;

16 (iv) a county board of education; or

17 (v) the part, section, or portion of a
18 county, county board of school trustees, or county board of
19 education described by Section 552.003(1)(A)(xii), Government
20 Code, that is a governmental body for purposes of Chapter 552,
21 Government Code; and

22 (B) does not include:

23 (i) the judiciary; or

24 (ii) a private entity that spends or is
25 supported wholly or partly by public funds.

26 (2) "County officer" means an elected or appointed
27 officer of a county governmental body.

1 (3) "Municipal governmental body":

2 (A) means:

3 (i) the governing body of a municipality;

4 (ii) a deliberative body that has
5 rulemaking or quasi-judicial power and that is classified as a
6 department, agency, or political subdivision of a municipality; or

7 (iii) the part, section, or portion of a
8 municipality described by Section 552.003(1)(A)(xii), Government
9 Code, that is a governmental body for purposes of Chapter 552,
10 Government Code; and

11 (B) does not include:

12 (i) the judiciary; or

13 (ii) a private entity that spends or is
14 supported wholly or partly by public funds.

15 (4) "Municipal officer" means an elected or appointed
16 officer of a municipal governmental body.

17 (5) "Public information" has the meaning assigned by
18 Section 552.002, Government Code.

19 (6) "Special district" means a political subdivision
20 of this state that has a limited geographic area and is created by
21 local law or under general law for a special purpose.

22 (7) "Special district officer" means a member of the
23 governing body of a special district.

24 Sec. 206.002. RIGHT OF ACCESS TO INFORMATION. (a) This
25 section does not apply to public information that is confidential
26 or excepted from disclosure under:

27 (1) Section 552.0038, Government Code;

1 (2) Section 552.108, Government Code;

2 (3) Section 552.119, Government Code; or

3 (4) Section 552.147, Government Code.

4 (b) A county officer has a right of access to information
5 that is public information of the county governmental body to which
6 the county officer is elected or appointed.

7 (c) A municipal officer has a right of access to information
8 that is public information of the municipal governmental body to
9 which the municipal officer is elected or appointed.

10 (d) A special district officer has a right of access to
11 information that is public information of the district.

12 Sec. 206.003. PROVISION OF INFORMATION. (a) A county
13 governmental body on request by a county officer of the
14 governmental body, a municipal governmental body on request by a
15 municipal officer of the governmental body, or a special district
16 on request by a special district officer of the district shall
17 provide public information to which the officer has a right of
18 access, including confidential information or information
19 otherwise excepted from disclosure, to the officer in accordance
20 with Chapter 552, Government Code.

21 (b) A county governmental body, municipal governmental
22 body, or special district, by providing public information under
23 this section that is confidential or otherwise excepted from
24 disclosure under law, does not waive or affect the confidentiality
25 of the information for purposes of state or federal law or waive the
26 right of the governmental body or special district to assert
27 exceptions to disclosure of the information in the future.

1 Sec. 206.004. CONFIDENTIALITY AGREEMENT. (a) A county
2 governmental body, municipal governmental body, or special
3 district shall require an officer requesting information under this
4 chapter or a designated employee of the requesting officer who will
5 view or handle information that is received under this chapter and
6 that is confidential or otherwise excepted from disclosure under
7 law to sign a confidentiality agreement that covers the information
8 and requires that:

9 (1) the information not be disclosed outside the
10 office of the requesting officer;

11 (2) the information be labeled as confidential;

12 (3) the information be kept securely; or

13 (4) the number of copies made of the information or the
14 notes taken from the information that implicate the confidential
15 nature of the information be controlled, with all copies or notes
16 that are not destroyed or returned remaining confidential and
17 subject to the confidentiality agreement.

18 (b) An individual required to sign a confidentiality
19 agreement under Subsection (a) may seek a decision as provided by
20 Section 206.005 about whether the information covered by the
21 confidentiality agreement is confidential or otherwise excepted
22 from disclosure under law. A confidentiality agreement signed
23 under Subsection (a) is void to the extent that the agreement covers
24 information that is finally determined under Section 206.005 to not
25 be confidential or otherwise excepted from disclosure under law.

26 Sec. 206.005. DECISION BY ATTORNEY GENERAL REGARDING
27 CONFIDENTIALITY OR DISCLOSURE. (a) An officer requesting

1 information under this chapter may seek a decision from the
2 attorney general about whether the information covered by a
3 confidentiality agreement under Section 206.004 is confidential or
4 otherwise excepted from disclosure under law.

5 (b) The attorney general by rule shall establish procedures
6 and deadlines for:

7 (1) receiving information necessary to determine
8 whether the information covered by a confidentiality agreement is
9 confidential or otherwise excepted from disclosure under law; and

10 (2) receiving briefs from a requesting officer, a
11 county governmental body, municipal governmental body, or special
12 district, as applicable, and any other interested person.

13 (c) The attorney general shall render the decision not later
14 than the 45th business day after the date the attorney general
15 receives the request for a decision. If the attorney general is
16 unable to issue the decision within the 45-day period, the attorney
17 general may during that 45-day period extend the period for issuing
18 the decision by an additional 10 business days by informing the
19 requesting officer, the county governmental body, municipal
20 governmental body, or special district, as applicable, and any
21 interested person who submitted necessary information or a brief to
22 the attorney general of the reason for the delay.

23 (d) The attorney general shall issue a written decision and
24 provide a copy of the decision to the requesting officer, the county
25 governmental body, municipal governmental body, or special
26 district, as applicable, and any interested person who submitted
27 necessary information or a brief to the attorney general under this

1 section.

2 (e) The requesting officer or the county governmental body,
3 municipal governmental body, or special district, as applicable,
4 may appeal a decision of the attorney general under Subsection (d)
5 to a district court. A person may appeal a decision of the attorney
6 general under Subsection (d) to a district court if the person
7 claims a proprietary interest in the information affected by the
8 decision or a privacy interest in the information that a
9 confidentiality law or judicial decision is designed to protect.

10 Sec. 206.006. DISTRIBUTION OR MISUSE OF CONFIDENTIAL
11 INFORMATION. (a) A person who is a recipient of confidential
12 information under this chapter commits an offense if the person
13 knowingly:

14 (1) permits inspection of the confidential
15 information by a person who is not authorized to inspect the
16 information; or

17 (2) discloses the confidential information to a person
18 who is not authorized to receive the information.

19 (b) An offense under this section is a misdemeanor
20 punishable by:

21 (1) a fine of not more than \$1,000;

22 (2) confinement in the county jail for not more than
23 six months; or

24 (3) both the fine and confinement.

25 (c) A violation under this section constitutes official
26 misconduct.

27 Sec. 206.007. EFFECT OF CHAPTER. (a) This chapter does

1 not affect:

2 (1) the right of a county officer, municipal officer,
3 or special district officer to obtain information under other law;

4 (2) the procedures under which the information is
5 obtained under other law; or

6 (3) the use that may be made of the information
7 obtained under other law.

8 (b) This chapter does not grant authority to a county
9 governmental body, municipal governmental body, or special
10 district to withhold information from a county officer, municipal
11 officer, or special district officer.

12 SECTION 3. The heading to Subtitle C, Title 9, Local
13 Government Code, is amended to read as follows:

14 SUBTITLE C. PUBLIC BUILDINGS AND GROUNDS [~~BUILDING~~] PROVISIONS
15 APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

16 SECTION 4. The heading to Chapter 305, Local Government
17 Code, is amended to read as follows:

18 CHAPTER 305. MISCELLANEOUS PUBLIC BUILDINGS AND GROUNDS [~~BUILDING~~]
19 PROVISIONS [~~AFFECTING MUNICIPALITIES AND COUNTIES~~]

20 SECTION 5. Chapter 305, Local Government Code, is amended
21 by adding Subchapter C to read as follows:

22 SUBCHAPTER C. RIGHT OF ACCESS TO PUBLIC PROPERTY BY CERTAIN PUBLIC
23 OFFICERS

24 Sec. 305.021. DEFINITION. In this subchapter, "political
25 subdivision" means a county, municipality, school district, junior
26 college district, other special district, or other subdivision of
27 state government.

1 Sec. 305.022. RIGHT OF ACCESS TO PUBLIC PROPERTY.

2 (a) This section does not apply to:

3 (1) the personal office of:

4 (A) an elected or appointed officer; or

5 (B) an employee of the political subdivision;

6 (2) a room that contains a criminal forensic
7 laboratory; or

8 (3) a room in which criminal evidence is stored.

9 (b) Notwithstanding any other provision of law and except as
10 provided by Subsection (a), a member of the governing body of a
11 political subdivision has a right of access to any building,
12 structure, room, land, or body of water owned or leased by or under
13 the exclusive control of the political subdivision to which the
14 member is elected or appointed.

15 Sec. 305.023. ACCESS TO PROPERTY. (a) A person who is
16 authorized to control access to property described by Section
17 305.022(b) shall provide a member of the governing body of the
18 political subdivision access to the property if the member:

19 (1) requests access to the property as a member of the
20 governing body; and

21 (2) presents an acceptable form of identification
22 described by Section 63.0101, Election Code.

23 (b) The authorized person must provide access to property
24 under this section not later than the 10th business day following
25 the date the request for access is made by the requesting member of
26 the governing body.

27 (c) A member of the governing body of a political

1 subdivision may not remove personal property from property to which
2 the member is provided access under this section.

3 SECTION 6. Not later than January 1, 2018, the attorney
4 general shall adopt rules establishing the procedures and deadlines
5 required by Section 674.054(b), Government Code, as added by this
6 Act, and Section 206.005(b), Local Government Code, as added by
7 this Act.

8 SECTION 7. Subchapter B, Chapter 674, Government Code, as
9 added by this Act, and Chapter 206, Local Government Code, as added
10 by this Act, apply only to a request for information received on or
11 after the effective date of this Act. A request for information
12 received before the effective date of this Act is governed by the
13 applicable law in effect immediately before the effective date of
14 this Act, and that law is continued in effect for that purpose.

15 SECTION 8. (a) Except as provided by Subsection (b) of
16 this section, this Act takes effect January 1, 2018.

17 (b) Section 6 of this Act takes effect immediately if this
18 Act receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, Section 6 of this Act takes effect September 1, 2017.