

By: Capriglione

H.B. No. 2191

A BILL TO BE ENTITLED

AN ACT

relating to the public information law.

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

SECTION 1. Section 552.003, Government Code, is amended by adding Subdivision (7) to read as follows:

(7) "Temporary custodian" means an officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. The term includes a former officer or employee of a governmental body who created or received public information in the officer's or employee's official capacity that has not been provided to the officer for public information of the governmental body or the officer's agent.

SECTION 2. Section 552.004, Government Code, is amended to read as follows:

Sec. 552.004. PRESERVATION OF INFORMATION. (a) A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which information that is not currently in use will be preserved, subject to Subsection (b) and to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

(b) A current or former officer or employee of a

1 governmental body who maintains public information on a privately
2 owned device shall:

3 (1) forward or transfer the public information to the
4 governmental body or a governmental body server to be preserved as
5 provided by Subsection (a); or

6 (2) preserve the public information in its original
7 form on the privately owned device for the time described under
8 Subsection (a).

9 (c) The provisions of Chapter 441 of this code and Title 6,
10 Local Government Code, governing the preservation, destruction, or
11 other disposition of records or public information apply to records
12 and public information held by a temporary custodian.

13 SECTION 3. Subchapter C, Chapter 552, Government Code, is
14 amended by adding Section 552.159 to read as follows:

15 Sec. 552.159. EXCEPTION: CONFIDENTIALITY OF CERTAIN
16 HEALTHCARE INFORMATION. A record of the identity, diagnosis,
17 evaluation, or treatment of a patient by a physician or hospital
18 that is created or maintained by a physician or hospital is
19 confidential and excepted from the requirements of Section 552.021.

20 SECTION 4. Section 552.203, Government Code, is amended to
21 read as follows:

22 Sec. 552.203. GENERAL DUTIES OF OFFICER FOR PUBLIC
23 INFORMATION. Each officer for public information, subject to
24 penalties provided in this chapter, shall:

25 (1) make public information available for public
26 inspection and copying;

27 (2) carefully protect public information from

1 deterioration, alteration, mutilation, loss, or unlawful removal;

2 [~~and~~]

3 (3) repair, renovate, or rebind public information as
4 necessary to maintain it properly; and

5 (4) make reasonable efforts to obtain public
6 information from a temporary custodian if:

7 (A) the information has been requested from the
8 governmental body;

9 (B) the officer for public information is aware
10 of facts sufficient to warrant a reasonable belief that the
11 temporary custodian has possession, custody, or control of the
12 information;

13 (C) the officer for public information is unable
14 to comply with the duties imposed by this chapter without obtaining
15 the information from the temporary custodian; and

16 (D) the temporary custodian has not provided the
17 information to the officer for public information or the officer's
18 agent.

19 SECTION 5. Subchapter E, Chapter 552, Government Code, is
20 amended by adding Sections 552.233, 552.234, and 552.235 to read as
21 follows:

22 Sec. 552.233. OWNERSHIP OF PUBLIC INFORMATION. (a) A
23 current or former officer or employee of a governmental body does
24 not have, by virtue of the officer's or employee's position or
25 former position, a personal or property right to public information
26 the officer or employee created or received while acting in an
27 official capacity.

1 (b) A temporary custodian with possession, custody, or
2 control of public information shall surrender or return the
3 information to the governmental body not later than the 10th day
4 after the date the officer for public information of the
5 governmental body or the officer's agent requests the temporary
6 custodian to surrender or return the information.

7 (c) A temporary custodian's failure to surrender or return
8 public information as required by Subsection (b) is grounds for
9 disciplinary action by the governmental body that employs the
10 temporary custodian or any other applicable penalties provided by
11 this chapter or other law.

12 (d) For purposes of the application of Subchapter G to
13 information surrendered or returned to a governmental body by a
14 temporary custodian under Subsection (b), the governmental body is
15 considered to receive the request for that information on the date
16 the information is surrendered or returned to the governmental
17 body.

18 Sec. 552.234. DESIGNATED ELECTRONIC MAIL AND MAILING
19 ADDRESSES FOR PUBLIC INFORMATION REQUESTS. A governmental body may
20 designate one electronic mail address and one mailing address for
21 receiving written requests for public information. If an inquiry
22 is made to a governmental body regarding the procedures for
23 requesting public information, the governmental body shall provide
24 the designated electronic mail and mailing addresses. A
25 governmental body that posts the designated electronic mail and
26 mailing addresses on the governmental body's Internet website is
27 not required to respond to a written request for public information

1 that is not received at one of those addresses.

2 Sec. 552.235. PUBLIC INFORMATION REQUEST FORM. (a) The
3 attorney general shall create a public information request form
4 that provides a requestor the option of excluding from a request
5 information that the governmental body determines is:

6 (1) confidential; or

7 (2) subject to an exception to disclosure that the
8 governmental body would assert if the information were subject to
9 the request.

10 (b) A governmental body that allows requestors to use the
11 form described by Subsection (a) and maintains an Internet website
12 shall post the form on its website.

13 SECTION 6. Section 552.301(c), Government Code, is amended
14 to read as follows:

15 (c) For purposes of this subchapter and subject to Section
16 552.234, a written request includes a request made in writing that
17 is sent to the officer for public information, or the person
18 designated by that officer, by electronic mail or facsimile
19 transmission.

20 SECTION 7. The attorney general shall create a public
21 information request form under Section 552.235(a), Government
22 Code, as added by this Act, not later than October 1, 2019.

23 SECTION 8. The changes in law made by this Act apply only to
24 a request for public information received on or after the effective
25 date of this Act. A request for public information received before
26 the effective date of this Act is governed by the law in effect when
27 the request was received, and the former law is continued in effect

1 for that purpose.

2 SECTION 9. This Act takes effect September 1, 2019.