

Amend SB 295 on third reading as follows:

(1) In amended Section 420.072(a)(5), Government Code, strike:

~~[(4) a person authorized to receive the disclosure as a result of written consent obtained under Section 420.073 or 420.0735,] or~~

(2) In amended Section 420.072(a)(6), Government Code, strike "[~~5~~]" and substitute the following:

~~[(4) a person authorized to receive the disclosure as a result of written consent obtained under Section 420.073 or 420.0735, or~~

~~[(5)]~~

(3) In amended Section 420.072(a)(6), Government Code, between "survivor" and the period, insert the following:

; or

(7) the communication or record is in the possession, custody, or control of the state and a court, after conducting an in camera review of the communication or record, determines the communication or record is exculpatory, provided that the disclosure is limited to the specific portion of the communication or record that was determined to be exculpatory in relation to a defendant in a criminal case

(4) Strike the SECTION of the bill repealing Section 420.074, Government Code, and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Section 420.074, Government Code, is amended to read as follows:

Sec. 420.074. DISCLOSURE OF PRIVILEGED COMMUNICATIONS OR OTHER INFORMATION IN CRIMINAL PROCEEDING [SUBPOENA]. (a) Subject to the provisions [Notwithstanding any other provision] of this chapter, not later than the 30th day before the date of the trial, a defendant in a criminal proceeding may make a motion for disclosure of a communication or record that is privileged under this chapter. The motion must include a supporting affidavit showing reasonable grounds to believe the privileged communication or record contains exculpatory evidence.

(b) The defendant shall serve the motion on the attorney representing the state and the person who holds the privilege with

regard to the communication or record at issue.

(c) The court shall order the privileged communication or record to be produced for the court under seal and shall examine the communication or record in camera if the court finds by a preponderance of the evidence that:

(1) there is a good-faith, specific, and reasonable basis for believing that the privileged communication or record is relevant, material, and exculpatory upon the issue of guilt for the offense charged; and

(2) the privileged communication or record would not be duplicative of other evidence or information available or already obtained by the defendant.

(d) The court [a person] shall disclose to the defendant and to the state only the evidence that the court finds to be exculpatory on the issue of guilt for the offense charged [~~a communication, a record, or evidence that is confidential under this chapter for use in a criminal investigation or proceeding in response to a subpoena issued in accordance with law~~].