87R12342 MCK-D

By:  White H.B. No. 3453

A BILL TO BE ENTITLED

AN ACT

relating to access to certain litigation, law enforcement, corrections, and prosecutorial records under the public information law.

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

SECTION 1.  The heading to Section 552.103, Government Code, is amended to read as follows:

Sec. 552.103.  EXCEPTION: NAMES OF INDIVIDUALS INVOLVED IN LITIGATION OR SETTLEMENT NEGOTIATIONS INVOLVING THE STATE OR A POLITICAL SUBDIVISION.

SECTION 2.  Sections 552.103(a) and (c), Government Code, are amended to read as follows:

(a)  Information [~~is excepted from the requirements of Section 552.021 if it is information~~] relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party is subject to the requirements of Section 552.021 except that the names of the persons involved in the litigation may be withheld.

(c)  The name of a person involved in litigation involving a governmental body or an officer or employee of a governmental body may be withheld under Subsection (a) [~~Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a)~~] only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information. For purposes of this section, litigation is considered reasonably anticipated only if a person with an alleged claim, or that person's attorney, has:

(1)  threatened in writing to take legal action against the governmental body; or

(2)  made a written demand for compensation as a result of an alleged claim against the governmental body.

SECTION 3.  The heading to Section 552.108, Government Code, is amended to read as follows:

Sec. 552.108.  EXCEPTION: CERTAIN NAMES IN LAW ENFORCEMENT, CORRECTIONS, AND PROSECUTORIAL INFORMATION.

SECTION 4.  Section 552.108, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a)  Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is subject to the requirements of Section 552.021 except that the name of a person being investigated or prosecuted for a crime may be withheld [~~excepted from the requirements of Section 552.021~~] if:

(1)  release of the information would interfere with the detection, investigation, or prosecution of crime;

(2)  it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(3)  it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or

(4)  it is information that:

(A)  is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B)  reflects the mental impressions or legal reasoning of an attorney representing the state.

(b)  An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is subject to the requirements of Section 552.021 except that the name of a person who is part of a law enforcement investigation or who is being prosecuted for a crime may be withheld [~~excepted from the requirements of Section 552.021~~] if:

(1)  release of the internal record or notation would interfere with law enforcement or prosecution;

(2)  the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3)  the internal record or notation:

(A)  is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B)  reflects the mental impressions or legal reasoning of an attorney representing the state.

(d)  The name of a person may not be withheld under this section in response to a written request for the information made by:

(1)  a person who is the subject of the information, record, or notation; or

(2)  if the person described by Subdivision (1) is deceased, the person's spouse, child, or parent, an administrator of the person's estate, or any of their attorneys.

SECTION 5.  The changes in law made by this Act to Sections 552.103 and 552.108, Government Code, apply only to a request for information that is received by a governmental body or an officer or employee of a governmental body on or after the effective date of this Act. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2021.