87R9178 MCK-D

By:  West S.B. No. 974

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  Section 552.108, Government Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c)  This section does not except from the requirements of Section 552.021:

(1)  information that is basic information about an arrested person, an arrest, [~~or~~] a crime, or a criminal investigation; and

(2)  basic information contained in:

(A)  a search warrant;

(B)  testimony, an affidavit, or other information used to support a finding of probable cause to execute a search warrant;

(C)  an arrest warrant, an arrest report, an incident report, or an accident report;

(D)  a mug shot;

(E)  a report relating to:

(i)  an officer-involved shooting; or

(ii)  an incident involving the discharge of a firearm by a peace officer, including the unintentional discharge of a firearm in the course of duty or in response to a call, regardless of whether:

(a)  a person is hit by gunfire; or

(b)  an allegation of misconduct is made;

(F)  a report relating to a peace officer's use of force resulting in death or serious bodily injury as defined by Section 1.07, Penal Code; or

(G)  a report related to the death or serious bodily injury of an arrestee or detainee while the person is in the custodial care of a law enforcement agency.

(d)  The exceptions to disclosure provided by Subsections (a)(2) and (b)(2) do not apply to information, records, or notations if:

(1)  a person who is a subject of the information, record, or notation, other than a peace officer, is deceased or incapacitated; or

(2)  each person who is a subject of the information, record, or notation consents to the release of the information, record, or notation.

(e)  This section does not except from the requirements of Section 552.021 a letter, memorandum, or document regarding a peace officer's alleged misconduct in the peace officer's personnel file under Section 143.089, Local Government Code, if:

(1)  a person who is a subject of the letter, memorandum, or document, other than the peace officer, is deceased or incapacitated; or

(2)  each person who is a subject of the letter, memorandum, or document consents to the release of the letter, memorandum, or document.

(f)  A governmental body that releases information, records, or notations to a family member of a deceased or incapacitated person who is a subject of the information, record, or notation is not considered to have voluntarily made that information available to the public for purposes of Section 552.007 and does not waive the ability to assert in the future that the information is excepted from required disclosure under this section or other law.

SECTION 2.  Section 143.089, Local Government Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g)  A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department to store sensitive personal information, including the individual's home address, home telephone number, personal cellular telephone number, emergency contact information, social security number, personal financial information, information that reveals whether the person has family members, and any other personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The [~~for the department's use, but the~~] department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer, other than information in a police officer's personnel file relating to a police officer's alleged misconduct, as permitted by Section 552.108, Government Code. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

(h)  Notwithstanding any other law, a fire or police department shall disclose law enforcement disciplinary record information reasonably necessary to identify an allegation against a fire fighter or police officer that resulted in a sustained finding of misconduct, including:

(1)  any record created in furtherance of a law enforcement disciplinary proceeding;

(2)  each complaint, allegation, and charge against the employee;

(3)  the name of the employee complained of or charged;

(4)  the transcript of any disciplinary trial or hearing, including any exhibit introduced at the trial or hearing;

(5)  the disposition of any disciplinary proceeding; and

(6)  the final written opinion or memorandum supporting the disposition and discipline imposed, including the agency's:

(A)  complete factual findings; and

(B)  analysis of the conduct and appropriate discipline of the covered employee.

SECTION 3.  The changes in law made by this Act apply to information produced or maintained before, on, or after the effective date of this Act.

SECTION 4.  This Act takes effect September 1, 2021.