

By: Reynolds

H.B. No. 1091

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of identifying information of certain crime victims.

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

SECTION 1. Chapter 58, Code of Criminal Procedure, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF CERTAIN CRIME VICTIMS

Art. 58.351. DEFINITIONS. In this chapter:

(1) "Child" means a person who is younger than 18 years of age.

(2) "Victim" means a person who was the subject of:

(A) an offense under Section 20A.02, 21.02, 21.11, 22.01, 22.011, 22.02, 22.021, 43.02(a), 43.05, or 43.25, Penal Code;

(B) an offense for which the court made an affirmative finding under Article 42.014; or

(C) an offense that is part of the same criminal episode, as defined by Section 3.01, Penal Code, as an offense described by Paragraph (A) or (B).

Art. 58.352. CONFIDENTIALITY OF FILES AND RECORDS. (a) The office of the attorney general shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, date of birth, telephone number, and pseudonym of a

1 victim.

2 (b) The law enforcement agency investigating the offense  
3 shall offer the victim a pseudonym to be used instead of the  
4 victim's name to designate the victim in all public files and  
5 records concerning the offense, including police summary reports,  
6 press releases, and records of judicial proceedings. If the victim  
7 is a child, the agency shall offer the pseudonym to the victim's  
8 parent, conservator, or guardian on behalf of the victim, unless  
9 the victim's parent, conservator, or guardian is alleged to have  
10 committed the offense described by Article 58.351(2). A victim or a  
11 victim's parent, conservator, or guardian, as applicable, who  
12 elects to receive a pseudonym provided under this article must  
13 complete the pseudonym form developed by the office of the attorney  
14 general and return the form to the law enforcement agency  
15 investigating the offense.

16 (c) A victim or other authorized person as described by  
17 Subsection (b) who completes and returns a pseudonym form to the law  
18 enforcement agency investigating the offense may not be required to  
19 disclose the victim's name, address, date of birth, and telephone  
20 number in connection with the investigation or prosecution of the  
21 offense.

22 (d) A completed and returned pseudonym form is confidential  
23 and may not be disclosed to any person other than a defendant in the  
24 case or the defendant's attorney, except on an order of a court of  
25 competent jurisdiction. The court finding required by Subsection  
26 (g) is not required to disclose the confidential pseudonym form to  
27 the defendant in the case or to the defendant's attorney.

1       (e) If a victim or other authorized person as described by  
2 Subsection (b) completes and returns a pseudonym form to a law  
3 enforcement agency under this article, the law enforcement agency  
4 receiving the form shall:

5           (1) remove the victim's name and substitute the  
6 pseudonym for the name on all reports, files, and records in the  
7 agency's possession;

8           (2) notify the attorney for the state that the victim  
9 or other authorized person has elected to receive a pseudonym under  
10 this article and provide that pseudonym to the attorney; and

11           (3) maintain the form in a manner that protects the  
12 confidentiality of the information contained on the form.

13       (f) An attorney for the state who receives notice that a  
14 victim or other authorized person has elected to receive a  
15 pseudonym under this article shall ensure that the victim is  
16 designated by the pseudonym in all legal proceedings concerning the  
17 offense.

18       (g) A court of competent jurisdiction may order the  
19 disclosure of a victim's name, address, date of birth, and  
20 telephone number only if the court finds that the information is  
21 essential in the trial of the defendant for the offense or the  
22 identity of the victim is in issue.

23       (h) Except as required or permitted by other law or by court  
24 order, a public servant or other person who has access to or obtains  
25 the name, address, date of birth, telephone number, or other  
26 identifying information of a victim may not release or disclose the  
27 identifying information to any person who is not assisting in the

1 investigation, prosecution, or defense of the case. This  
2 subsection does not apply to the release or disclosure of a victim's  
3 identifying information by:

4 (1) the victim; or

5 (2) if the victim is a child, the victim's parent,  
6 conservator, or guardian, unless the victim's parent, conservator,  
7 or guardian is alleged to have committed the offense described by  
8 Article 58.351(2).

9 Art. 58.353. OFFENSE. (a) A public servant with access to  
10 the name, address, date of birth, or telephone number of a victim  
11 who has received a pseudonym under this chapter commits an offense  
12 if the public servant knowingly discloses the name, address, date  
13 of birth, or telephone number of the victim to any person who is not  
14 assisting in the investigation or prosecution of the offense or to  
15 any person other than the defendant, the defendant's attorney, or  
16 the person specified in the order of a court of competent  
17 jurisdiction.

18 (b) Unless the disclosure is required or permitted by other  
19 law, a public servant or other person commits an offense if the  
20 person:

21 (1) has access to or obtains the name, address, date of  
22 birth, or phone number of a victim; and

23 (2) knowingly discloses the name, address, date of  
24 birth, or telephone number of the victim to any person who is not  
25 assisting in the investigation or prosecution of the offense or to  
26 any person other than the defendant, the defendant's attorney, or a  
27 person specified in an order of a court of competent jurisdiction.

1        (c) It is an affirmative defense to prosecution under  
2 Subsection (b) that the actor is:

3            (1) the victim; or

4            (2) if the victim is a child, the victim's parent,  
5 conservator, or guardian, unless the victim's parent, conservator,  
6 or guardian is alleged to have committed the offense described by  
7 Article 58.351(2).

8        (d) An offense under this article is a Class C misdemeanor.

9        SECTION 2. Not later than October 1, 2021, the office of the  
10 attorney general shall develop and distribute to all law  
11 enforcement agencies of the state a pseudonym form to record the  
12 name, address, date of birth, telephone number, and pseudonym of a  
13 victim as required by Article 58.352, Code of Criminal Procedure,  
14 as added by this Act.

15        SECTION 3. This Act takes effect September 1, 2021.