

By: White

H.B. No. 3453

A BILL TO BE ENTITLED

1 AN ACT
2 relating to access to certain litigation, law enforcement,
3 corrections, and prosecutorial records under the public
4 information law.

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

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

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

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

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

21 (c) The name of a person involved in litigation involving a
22 governmental body or an officer or employee of a governmental body
23 may be withheld under Subsection (a) [~~Information relating to~~
24 litigation involving a governmental body or an officer or employee

1 ~~of a governmental body is excepted from disclosure under Subsection~~
2 ~~(a)]~~ only if the litigation is pending or reasonably anticipated on
3 the date that the requestor applies to the officer for public
4 information for access to or duplication of the information. For
5 purposes of this section, litigation is considered reasonably
6 anticipated only if a person with an alleged claim, or that person's
7 attorney, has:

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

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

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

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

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

19 (a) Information held by a law enforcement agency or
20 prosecutor that deals with the detection, investigation, or
21 prosecution of crime is subject to the requirements of Section
22 552.021 except that the name of a person being investigated or
23 prosecuted for a crime may be withheld [~~excepted from the~~
24 ~~requirements of Section 552.021]~~ if:

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

27 (2) it is information that deals with the detection,

1 investigation, or prosecution of crime only in relation to an
2 investigation that did not result in conviction or deferred
3 adjudication;

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

7 (4) it is information that:

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

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

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

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

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

25 (3) the internal record or notation:

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

1 litigation; or

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

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

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

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

12 SECTION 5. The changes in law made by this Act to Sections
13 552.103 and 552.108, Government Code, apply only to a request for
14 information that is received by a governmental body or an officer or
15 employee of a governmental body on or after the effective date of
16 this Act. A request for information that was received before the
17 effective date of this Act is governed by the law in effect on the
18 date the request was received, and the former law is continued in
19 effect for that purpose.

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