

By: West

S.B. No. 508

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the confidentiality of and discovery procedures  
3 relating to certain material regarding the protection or security  
4 of a witness; creating a criminal offense.

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

6 SECTION 1. This Act may be cited as the Tyrek Jenkins Act.

7 SECTION 2. Article 39.14(a), Code of Criminal Procedure, is  
8 amended to read as follows:

9 (a) Subject to the restrictions provided by Section  
10 264.408, Family Code, and Articles [~~Article~~] 39.15 and 39.16 of  
11 this code, as soon as practicable after receiving a timely request  
12 from the defendant the state shall produce and permit the  
13 inspection and the electronic duplication, copying, and  
14 photographing, by or on behalf of the defendant, of any offense  
15 reports, any designated documents, papers, written or recorded  
16 statements of the defendant or a witness, including witness  
17 statements of law enforcement officers but not including the work  
18 product of counsel for the state in the case and their investigators  
19 and their notes or report, or any designated books, accounts,  
20 letters, photographs, or objects or other tangible things not  
21 otherwise privileged that constitute or contain evidence material  
22 to any matter involved in the action and that are in the possession,  
23 custody, or control of the state or any person under contract with  
24 the state. The state may provide to the defendant electronic

1 duplicates of any documents or other information described by this  
2 article. The rights granted to the defendant under this article do  
3 not extend to written communications between the state and an  
4 agent, representative, or employee of the state. This article does  
5 not authorize the removal of the documents, items, or information  
6 from the possession of the state, and any inspection shall be in the  
7 presence of a representative of the state.

8 SECTION 3. Chapter 39, Code of Criminal Procedure, is  
9 amended by adding Article 39.16 to read as follows:

10 Art. 39.16. MATERIAL RELATED TO WITNESS PROTECTION OR  
11 SECURITY. (a) This article applies to any record, claim, writing,  
12 document, information, or other material:

13 (1) received, made, or kept by an agency or program  
14 with the primary purpose of protecting, securing, or relocating  
15 witnesses; or

16 (2) in the possession of the state and relating to the  
17 protecting, securing, or relocating of a witness by an agency or  
18 program described by Subdivision (1).

19 (b) Notwithstanding Article 39.14, the state may not  
20 produce for the defendant or permit the inspection by the defendant  
21 of material described by Subsection (a) before the material has  
22 been submitted to the court for an in camera review and the court  
23 has determined that the production or inspection of the material  
24 is:

25 (1) required under the United States Constitution; or

26 (2) otherwise necessary for a matter before the court.

27 (c) To preserve material for appellate review, the court

1 shall place any material reviewed in camera under this article  
2 under seal of the court.

3 (d) A prosecutor or other attorney representing an agency or  
4 program with the primary purpose of protecting, securing, or  
5 relocating witnesses has standing in any criminal action to oppose  
6 the disclosure of material under this article.

7 SECTION 4. Chapter 30, Civil Practice and Remedies Code, is  
8 amended by adding Section 30.0065 to read as follows:

9 Sec. 30.0065. MATERIAL RELATED TO WITNESS PROTECTION OR  
10 SECURITY. (a) This section applies to any record, claim, writing,  
11 document, information, or other material:

12 (1) received, made, or kept by an agency or program  
13 with the primary purpose of protecting, securing, or relocating  
14 witnesses; or

15 (2) in the possession of the state and relating to the  
16 protecting, securing, or relocating of a witness by an agency or  
17 program described by Subdivision (1).

18 (b) A party in a civil case may not produce or release  
19 material described by Subsection (a) before the material has been  
20 submitted to the court for an in camera review and the court has  
21 determined that the production or release of the material is  
22 necessary for a matter before the court.

23 (c) To preserve material for appellate review, the court  
24 shall place any material reviewed in camera under this section  
25 under seal of the court.

26 (d) A prosecutor or other attorney representing an agency or  
27 program with the primary purpose of protecting, securing, or

1 relocating witnesses has standing in any civil action to oppose the  
2 disclosure of material under this section.

3 SECTION 5. Subchapter C, Chapter 552, Government Code, is  
4 amended by adding Section 552.1082 to read as follows:

5 Sec. 552.1082. EXCEPTION: CONFIDENTIALITY OF CERTAIN  
6 INFORMATION REGARDING WITNESS PROTECTION OR SECURITY. Information  
7 is confidential and excepted from the requirements of Section  
8 552.021 if the information is:

9 (1) received, made, or kept by an agency or program  
10 with the primary purpose of protecting, securing, or relocating  
11 witnesses; or

12 (2) in the possession of the state and relating to the  
13 protecting, securing, or relocating of a witness by an agency or  
14 program described by Subdivision (1).

15 SECTION 6. Chapter 38, Penal Code, is amended by adding  
16 Section 38.20 to read as follows:

17 Sec. 38.20. UNLAWFUL DISCLOSURE OF MATERIAL RELATED TO  
18 WITNESS PROTECTION OR SECURITY. (a) A person commits an offense if  
19 the person knowingly discloses any record, claim, writing,  
20 document, information, or other material:

21 (1) in violation of Article 39.16, Code of Criminal  
22 Procedure, or Section 30.0065, Civil Practice and Remedies Code; or

23 (2) in response to a request under Chapter 552,  
24 Government Code, when the record, claim, writing, document,  
25 information, or other material is confidential and excepted from  
26 disclosure under Section 552.1082, Government Code.

27 (b) An offense under this section is a Class A misdemeanor.

1           SECTION 7. (a) Article 39.14, Code of Criminal Procedure,  
2 as amended by this Act, and Article 39.16, Code of Criminal  
3 Procedure, as added by this Act, apply only to the prosecution of an  
4 offense committed on or after the effective date of this Act. The  
5 prosecution of an offense committed before the effective date of  
6 this Act is governed by the law in effect on the date the offense was  
7 committed, and the former law is continued in effect for that  
8 purpose. For purposes of this section, an offense is committed  
9 before the effective date of this Act if any element of the offense  
10 occurs before the effective date.

11           (b) Section 30.0065, Civil Practice and Remedies Code, as  
12 added by this Act, applies only to an action commenced on or after  
13 the effective date of this Act.

14           (c) Section 552.1082, Government Code, as added by this Act,  
15 applies only to a request for public information received on or  
16 after the effective date of this Act. A request for public  
17 information received before the effective date of this Act is  
18 governed by the law in effect on the date the request was received,  
19 and the former law is continued in effect for that purpose.

20           SECTION 8. This Act takes effect September 1, 2021.