

By: West

S.B. No. 974

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

13 (2) basic information contained in:

14 (A) a search warrant;

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

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

20 (D) a mug shot;

21 (E) a report relating to:

22 (i) an officer-involved shooting; or

23 (ii) an incident involving the discharge of  
24 a firearm by a peace officer, including the unintentional discharge

1 of a firearm in the course of duty or in response to a call,  
2 regardless of whether:

3 (a) a person is hit by gunfire; or

4 (b) an allegation of misconduct is  
5 made;

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

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

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

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

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

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

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

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

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

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

14           (g) A fire or police department may maintain a personnel  
15 file on a fire fighter or police officer employed by the department  
16 to store sensitive personal information, including the  
17 individual's home address, home telephone number, personal  
18 cellular telephone number, emergency contact information, social  
19 security number, personal financial information, information that  
20 reveals whether the person has family members, and any other  
21 personal information the disclosure of which would constitute a  
22 clearly unwarranted invasion of personal privacy. The [~~for the~~  
23 ~~department's use, but the~~] department may not release any  
24 information contained in the department file to any agency or  
25 person requesting information relating to a fire fighter or police  
26 officer, other than information in a police officer's personnel  
27 file relating to a police officer's alleged misconduct, as

1 permitted by Section 552.108, Government Code. The department  
2 shall refer to the director or the director's designee a person or  
3 agency that requests information that is maintained in the fire  
4 fighter's or police officer's personnel file.

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

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

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

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

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

17 (5) the disposition of any disciplinary proceeding;

18 and

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

21 (A) complete factual findings; and

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

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

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