

BILL ANALYSIS

Senate Research Center

C.S.S.B. 435
By: Middleton
Criminal Justice
4/18/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised that the disclosure of certain evidence of a crime that resulted in the death of a person would require the evidence to be available to the public. After the Santa Fe school shooting, many next of kin of those who were killed or seriously injured requested to view the evidence to gain closure. However, due to current laws, disclosing the evidence to the next of kin would require the evidence be disclosed to the public, including the media. Families are seeking access to critical information regarding their loved ones.

S.B. 435 seeks to resolve the issue by permitting a prosecutor to allow a family member to view certain evidence, including a medical examiner's report and video evidence, without subjecting the evidence to disclosure. The bill only applies to victims who have suffered personal injury or death as a result of criminal conduct.

An immediate family member will have access to (1) a medical examiner's report and (2) video evidence of the crime. They will not be permitted to duplicate or record this sensitive information. The bill allows the prosecutor to require viewing family members to sign a confidentiality agreement prior to viewing.

Finally, the bill does not affect the confidentiality of information as it pertains to state or federal law. The bill is exempt from required public disclosure under Section 552.007(b), Government Code. It also does not affect currently established procedures for obtaining/using a medical examiner reports or video evidence of a crime.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 435 amends current law relating to the disclosure under the public information law of certain evidence of a crime that resulted in the death of a person.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 552.108, Government Code, by adding Subsections (d), (e), (f), (g), and (h), as follows:

(d) Authorizes a prosecutor, notwithstanding any other law, to permit a person to view certain evidence of a qualifying crime that occurred in the prosecutor's jurisdiction at least five years before the date the person is allowed to view the information.

(e) Prohibits a person permitted to view a medical examiner's report or video evidence under Subsection (d) from copying, duplicating, photographing, recording, capturing, or otherwise memorializing the information. Authorizes a prosecutor to prohibit the person from having a recording device, including a phone or camera, in the room when the person views the information. Requires the prosecutor to advise the person that the information is confidential and that discussing the contents of the information with

another person is prohibited and could compromise the prosecution of the crime. Authorizes the prosecutor to require the person to sign a confidentiality agreement before permitting the person to view the information.

(f) Provides that a permitted viewing of a medical examiner's report or video evidence under Subsection (d) is not a voluntary disclosure of information for purposes of Section 552.007(b) (relating to requiring that certain information be made available to any person). Provides that a governmental body, by providing information under Subsection (d) that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future.

(g) Provides that Subsection (d) does not affect:

(1) the right of a person to obtain a medical examiner's report or video evidence of a crime from a governmental body under other law;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

(h) Defines "family member," "medical examiner's report," "qualifying crime," and "victim."

SECTION 2. Provides that the change in law made by this Act applies to a crime this occurred before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2023.