

BILL ANALYSIS

Senate Research Center
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S.B. 1658
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Public Information Act (PIA) in Texas aims to ensure transparency, openness, and accountability in government. However, recent court rulings have led to confusion, less transparency, and unintended consequences in the interpretation of PIA provisions. Additionally, technological advances and changes in PIA practices have rendered some sections outdated. It is essential to address these issues before they escalate into more significant problems that could undermine the purpose of the PIA.

S.B. 1658 makes revisions to existing PIA sections that codify previous interpretations by the Office of the Attorney General and repeals an outdated section of the PIA. Specifically, the bill updates the definition of "body worn camera" under Occupations Code Chapter 1701 to confirm it covers video capture devices (i.e., cameras) and not audio only devices like microphones and radios. The bill also revises Government Code Section 552.108(c) to clarify when a governmental body must release "basic information" from law enforcement files under the PIA. S.B. 1658 updates Government Code Section 552.302 to specify the PIA exceptions to disclosure that do not constitute "compelling" exceptions. Lastly, the bill addresses confusing and outdated procedures to handle programming and manipulation of data in Government Code Section 552.231.

As proposed, S.B. 1658 amends current law relating to the collection and disclosure of certain public information.

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 552.101, Government Code, as follows:

Sec. 552.101. EXCEPTION: CONFIDENTIAL INFORMATION. (a) Creates this subsection from existing text. Provides that certain information, subject to Subsection (b), is excepted from the requirements of Section 552.021 (Availability of Public Information).

(b) Provides that this section does not encompass:

- (1) the attorney-client privilege;
- (2) the work product privilege;
- (3) another exception to disclosure provided by Chapter 552 (Public Information); or
- (4) a state or federal discovery privilege, including a discovery privilege provided by the:

- (A) Texas Rules of Civil Procedure;
- (B) Texas Rules of Evidence;
- (C) Texas Disciplinary Rules of Professional Conduct;
- (D) Federal Rules of Evidence; or
- (E) Federal Rules of Civil Procedure.

SECTION 2. Amends Section 552.108(c), Government Code, as follows:

(c) Provides that Section 552.108 (Exception: Certain Law Enforcement, Corrections, and Prosecutorial Information) does not except basic information from the requirements of Section 552.021, rather than provides that this section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

SECTION 3. Amends Section 552.302, Government Code, as follows:

Sec. 552.302. FAILURE TO MAKE TIMELY REQUEST FOR ATTORNEY GENERAL DECISION; PRESUMPTION THAT INFORMATION IS PUBLIC. (a) Creates this subsection from existing text. Provides that the information requested in writing, subject to Subsection (b), if a governmental body does not take certain actions, is presumed to be subject to required public disclosure and is required to be released unless there is a compelling reason to withhold the information.

(b) Provides that Sections 552.103 (Exception: Litigation or Settlement Negotiations Involving the State or a Political Subdivision), 552.104 (Exception: Information Related to Competition or Bidding), 552.105 (Exception: Information Related to Location or Price of Property), 552.106 (Exception: Certain Legislative Documents), 552.108, 552.111 (Exception: Agency Memoranda), 552.112 (Exception: Certain Information Relating to Regulation of Financial Institutions or Securities), 552.116 (Exception: Audit Working Papers), 552.122 (Exception: Test Items), 552.125 (Exception: Certain Audits), 552.131(b) (relating to providing that information about a financial or other incentive being offered to a business prospect by a governmental body or by another person, unless and until an agreement is made with the business prospect, is excepted from the requirements of Section 552.021), 552.144 (Exception: Working Papers and Electronic Communications of Administrative Law Judges at State Office of Administrative Hearings), 552.146 (Exception: Certain Communications with Assistant or Employee of Legislative Budget Board), 552.153(b)(1) (relating to providing that information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 (Public and Private Facilities and Infrastructure) is excepted from the requirements of Section 552.021 if the information consists of certain items prepared by certain entities exclusively for certain purposes) and 552.154 (Exception: Name of Applicant for Executive Director, Chief Investment Officer, or Chief Audit Executive of Teacher Retirement System of Texas) do not constitute compelling reasons for a governmental body that fails to comply with the requirements of Section 552.301 (Request for Attorney General Decision) to withhold information under Subsection (a).

(c) Provides that the exclusion of an exception to disclosure from the list in Subsection (b) does not create a presumption that the exception constitutes a compelling reason for a governmental body to withhold information under Subsection (a).

SECTION 4. Amends Section 118.011(e), Local Government Code, as follows:

(e) Requires a county clerk who provides a copy in a format other than paper of a record maintained by the clerk to provide the copy and charge a fee in accordance with Section 552.262 (Rules of the Attorney General), Government Code, rather than with Sections 552.231 (Responding to Requests for Information that Require Programming or Manipulation of Data) and 552.262, Government Code.

SECTION 5. Amends Section 1701.651(1), Occupations Code, to redefine "body worn camera."

SECTION 6. Repealer: Section 552.231 (Responding to Requests for Information that Require Programming or Manipulation of Data), Government Code.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2023.