

A BILL TO BE ENTITLED

AN ACT

relating to creating a criminal offense for the unauthorized disclosure of non-public judicial opinions and judicial work product.

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

SECTION 1. Chapter 21, Government Code, is amended by adding Section 21.013 to read as follows:

Sec. 21.013. CONFIDENTIALITY OF JUDICIAL WORK PRODUCT; CRIMINAL OFFENSE. (a) In this section:

(1) "Judicial work product" means written, electronic, or oral material prepared or communications made in the course of an adjudicatory proceeding before a court determining legal rights, powers, duties, or privileges. The term includes all drafts of opinions or orders and memoranda of law.

(2) "Non-public judicial work product" means:

(A) any written or electronic judicial work product other than documents filed with the clerk of a court for release to the public; or

(B) any oral statement relating to judicial work product made in a closed session of a court or in judicial chambers.

(b) This section applies to:

(1) a court established under Section 1, Article V, Texas Constitution, other than a commissioners court; and

(2) a court subject to this subtitle.

1 (c) A justice or judge of a court shall comply with supreme
2 court rules governing the confidentiality of non-public judicial
3 work product.

4 (d) A person, other than a justice or judge, who is involved
5 in crafting an opinion or decision for an adjudicatory proceeding,
6 including a court staff attorney, court clerk, or law clerk, shall
7 maintain the confidentiality of all non-public judicial work
8 product in accordance with supreme court rules.

9 (e) A person, other than a justice or judge, with access to
10 non-public judicial work product commits an offense if the person
11 knowingly discloses, wholly or partly, the contents of any
12 non-public judicial work product to a person who is not a justice,
13 judge, court staff attorney, court clerk, law clerk, employee of an
14 agency established under Chapter 71 or 72, or other court staff
15 routinely involved in crafting an opinion or decision for an
16 adjudicatory proceeding.

17 (f) An offense under this section is a Class A misdemeanor.

18 (g) It is a defense to prosecution under this section that
19 the disclosure of the non-public judicial work product is
20 authorized:

21 (1) in writing by the justice or judge for whom the
22 work product is prepared; or

23 (2) under supreme court rules.

24 SECTION 2. As soon as practicable after the effective date
25 of this Act, the Texas Supreme Court shall adopt any rules necessary
26 to implement Section 21.013, Government Code, as added by this Act.

27 SECTION 3. This Act takes effect September 1, 2023.