

By: Middleton, et al.

S.B. No. 435

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure under the public information law of certain evidence of a crime that resulted in the death of a person.

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

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

(d) Notwithstanding other law, a prosecutor may permit a person to view the following 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:

(1) a medical examiner's report, if the person viewing the report is a family member of the person who is the subject of the report and the person who is the subject of the report was a victim of the crime; and

(2) video evidence of the crime, if the person viewing the video is a victim of the crime or a family member of a victim of the crime.

(e) A person permitted to view a medical examiner's report or video evidence under Subsection (d) may not copy, duplicate, photograph, record, capture, or otherwise memorialize the information. A prosecutor may prohibit the person from having a recording device, including a phone or camera, in the room when the person views the information. The prosecutor shall advise the person that the information is confidential and that discussing the

1 contents of the information with another person is prohibited and
2 could compromise the prosecution of the crime. The prosecutor may
3 require the person to sign a confidentiality agreement before
4 permitting the person to view the information.

5 (f) A permitted viewing of a medical examiner's report or
6 video evidence under Subsection (d) is not a voluntary disclosure
7 of information for purposes of Section 552.007(b). A governmental
8 body, by providing information under Subsection (d) that is
9 confidential or otherwise excepted from required disclosure under
10 law, does not waive or affect the confidentiality of the
11 information for purposes of state or federal law or waive the right
12 to assert exceptions to required disclosure of the information in
13 the future.

14 (g) Subsection (d) does not affect:

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

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

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

22 (h) In this section:

23 (1) "Family member" means a person related to a victim
24 of a crime within the first degree of consanguinity or affinity.

25 (2) "Medical examiner's report" means a report and the
26 contents of such a report created by a medical examiner under
27 Article 49.25, Code of Criminal Procedure, including an autopsy

1 report and toxicology report.

2 (3) "Qualifying crime" means a crime:

3 (A) that resulted in the death of at least five
4 people; and

5 (B) for which the defendant or person who is the
6 alleged or suspected perpetrator of the crime is determined to be
7 incompetent to stand trial.

8 (4) "Victim" means an individual who suffered personal
9 injury or death as a result of criminal conduct.

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

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2023.