

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/24/19  
Date

Honorable Dan Patrick  
President of the Senate

Honorable Dennis Bonnen  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 944 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Mark Watson

Watson

Stampbell

Campbell

Ken Hancock

Hancock

Bob Nichols

Nichols

Andy S. Paxton

On the part of the Senate Paxton

LaPrigione

LaPrigione

Phil King

King, Phil

Mike Lang

Moody

Moody

Seamus W. Morrison

On the part of the House Morrison

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 944

A BILL TO BE ENTITLED

AN ACT

relating to the public information law.

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

SECTION 1. Section 552.002, Government Code, is amended by adding Subsection (d) to read as follows:

(d) "Protected health information" as defined by Section 181.006, Health and Safety Code, is not public information and is not subject to disclosure under this chapter.

SECTION 2. Section 552.003, Government Code, is amended by adding Subdivision (7) to read as follows:

(7) "Temporary custodian" means an officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. The term includes a former officer or employee of a governmental body who created or received public information in the officer's or employee's official capacity that has not been provided to the officer for public information of the governmental body or the officer's agent.

SECTION 3. Section 552.004, Government Code, is amended to read as follows:

Sec. 552.004. PRESERVATION OF INFORMATION. (a) A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which

1 information that is not currently in use will be preserved, subject  
2 to Subsection (b) and to any applicable rule or law governing the  
3 destruction and other disposition of state and local government  
4 records or public information.

5 (b) A current or former officer or employee of a  
6 governmental body who maintains public information on a privately  
7 owned device shall:

8 (1) forward or transfer the public information to the  
9 governmental body or a governmental body server to be preserved as  
10 provided by Subsection (a); or

11 (2) preserve the public information in its original  
12 form in a backup or archive and on the privately owned device for  
13 the time described under Subsection (a).

14 (c) The provisions of Chapter 441 of this code and Title 6,  
15 Local Government Code, governing the preservation, destruction, or  
16 other disposition of records or public information apply to records  
17 and public information held by a temporary custodian.

18 SECTION 4. Subchapter C, Chapter 552, Government Code, is  
19 amended by adding Section 552.159 to read as follows:

20 Sec. 552.159. EXCEPTION: CONFIDENTIALITY OF CERTAIN  
21 INFORMATION PROVIDED BY OUT-OF-STATE HEALTH CARE PROVIDER.  
22 Information obtained by a governmental body that was provided by an  
23 out-of-state health care provider in connection with a quality  
24 management, peer review, or best practices program that the  
25 out-of-state health care provider pays for is confidential and  
26 excepted from the requirements of Section 552.021.

27 SECTION 5. Section 552.203, Government Code, is amended to

1 read as follows:

2 Sec. 552.203. GENERAL DUTIES OF OFFICER FOR PUBLIC  
3 INFORMATION. Each officer for public information, subject to  
4 penalties provided in this chapter, shall:

5 (1) make public information available for public  
6 inspection and copying;

7 (2) carefully protect public information from  
8 deterioration, alteration, mutilation, loss, or unlawful removal;  
9 ~~and~~

10 (3) repair, renovate, or rebind public information as  
11 necessary to maintain it properly; and

12 (4) make reasonable efforts to obtain public  
13 information from a temporary custodian if:

14 (A) the information has been requested from the  
15 governmental body;

16 (B) the officer for public information is aware  
17 of facts sufficient to warrant a reasonable belief that the  
18 temporary custodian has possession, custody, or control of the  
19 information;

20 (C) the officer for public information is unable  
21 to comply with the duties imposed by this chapter without obtaining  
22 the information from the temporary custodian; and

23 (D) the temporary custodian has not provided the  
24 information to the officer for public information or the officer's  
25 agent.

26 SECTION 6. Subchapter E, Chapter 552, Government Code, is  
27 amended by adding Sections 552.233, 552.234, and 552.235 to read as

1 follows:

2       Sec. 552.233. OWNERSHIP OF PUBLIC INFORMATION. (a) A  
3 current or former officer or employee of a governmental body does  
4 not have, by virtue of the officer's or employee's position or  
5 former position, a personal or property right to public information  
6 the officer or employee created or received while acting in an  
7 official capacity.

8       (b) A temporary custodian with possession, custody, or  
9 control of public information shall surrender or return the  
10 information to the governmental body not later than the 10th day  
11 after the date the officer for public information of the  
12 governmental body or the officer's agent requests the temporary  
13 custodian to surrender or return the information.

14       (c) A temporary custodian's failure to surrender or return  
15 public information as required by Subsection (b) is grounds for  
16 disciplinary action by the governmental body that employs the  
17 temporary custodian or any other applicable penalties provided by  
18 this chapter or other law.

19       (d) For purposes of the application of Subchapter G to  
20 information surrendered or returned to a governmental body by a  
21 temporary custodian under Subsection (b), the governmental body is  
22 considered to receive the request for that information on the date  
23 the information is surrendered or returned to the governmental  
24 body.

25       Sec. 552.234. METHOD OF MAKING WRITTEN REQUEST FOR PUBLIC  
26 INFORMATION. (a) A person may make a written request for public  
27 information under this chapter only by delivering the request by



1 one of the following methods to the applicable officer for public  
2 information or a person designated by that officer:

3 (1) United States mail;

4 (2) electronic mail;

5 (3) hand delivery; or

6 (4) any other appropriate method approved by the  
7 governmental body, including:

8 (A) facsimile transmission; and

9 (B) electronic submission through the  
10 governmental body's Internet website.

11 (b) For the purpose of Subsection (a)(4), a governmental  
12 body is considered to have approved a method described by that  
13 subdivision only if the governmental body includes a statement that  
14 a request for public information may be made by that method on:

15 (1) the sign required to be displayed by the  
16 governmental body under Section 552.205; or

17 (2) the governmental body's Internet website.

18 (c) A governmental body may designate one mailing address  
19 and one electronic mail address for receiving written requests for  
20 public information. The governmental body shall provide the  
21 designated mailing address and electronic mailing address to any  
22 person on request.

23 (d) A governmental body that posts the mailing address and  
24 electronic mail address designated by the governmental body under  
25 Subsection (c) on the governmental body's Internet website or that  
26 prints those addresses on the sign required to be displayed by the  
27 governmental body under Section 552.205 is not required to respond

1 to a written request for public information unless the request is  
2 received:

- 3 (1) at one of those addresses;  
4 (2) by hand delivery; or  
5 (3) by a method described by Subsection (a)(4) that  
6 has been approved by the governmental body.

7 Sec. 552.235. PUBLIC INFORMATION REQUEST FORM. (a) The  
8 attorney general shall create a public information request form  
9 that provides a requestor the option of excluding from a request  
10 information that the governmental body determines is:

- 11 (1) confidential; or  
12 (2) subject to an exception to disclosure that the  
13 governmental body would assert if the information were subject to  
14 the request.

15 (b) A governmental body that allows requestors to use the  
16 form described by Subsection (a) and maintains an Internet website  
17 shall post the form on its website.

18 SECTION 7. Section 552.301(c), Government Code, is  
19 repealed.

20 SECTION 8. The changes in law made by this Act apply only to  
21 a request for public information received on or after the effective  
22 date of this Act. A request for public information received before  
23 the effective date of this Act is governed by the law in effect when  
24 the request was received, and the former law is continued in effect  
25 for that purpose.

26 SECTION 9. The attorney general shall create a public  
27 information request form under Section 552.235(a), Government



S.B. No. 944

1 Code, as added by this Act, not later than October 1, 2019.

2 SECTION 10. This Act takes effect September 1, 2019.

**Senate Bill 944**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION (IE)	CONFERENCE
SECTIONS 1-3. Provisions of the Government Code are amended.	SECTIONS 1-3. Same as Senate version.	SECTIONS 1-3. Same as Senate version.
<i>No equivalent provision.</i>	SECTION __. Section 552.108, Government Code, is amended. [FA1(2)]	Same as Senate version.
<i>No equivalent provision.</i>	SECTION __. Subchapter C, Chapter 552, Government Code, is amended. [FA3]	Same as Senate version.
SECTIONS 4-6. Provisions of the Government Code are amended and provisions are added to the Government Code.	SECTIONS 4-6. Same as Senate version.	SECTIONS 4-6. Same as Senate version.
<i>No equivalent provision.</i>	SECTION __. Section 143.089(g), Local Government Code, is amended. [FA1(2)]	Same as Senate version.
<i>No equivalent provision.</i>	SECTION __. Sections 552.108(d), (e), and (f), Government Code, as added by this Act, and Section 143.089(g), Local Government Code, as amended by this Act, apply to information, records, notations, letters, memoranda, and documents collected, made, assembled, or maintained before, on, or after the effective date of this Act. [FA1(2)]	Same as Senate version.
SECTION 7. Section 552.301(c), Government Code, is repealed.	SECTION 7. Same as Senate version.	SECTION 7. Same as Senate version.
SECTION 8. The changes in law made by this Act apply only to a request for public information received on or after the effective date of this Act. A request for public information received before the effective date of this Act is	SECTION 8. <i>Except as otherwise provided by this Act</i> , the changes in law made by this Act apply only to a request for public information received on or after the effective date of this Act. A request for public information received before the effective date of this Act is governed by the law in effect	SECTION 8. Same as Senate version.

**Senate Bill 944**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

governed by the law in effect when the request was received, and the former law is continued in effect for that purpose.

SECTION 9. The attorney general shall create a public information request form under Section 552.235(a), Government Code, as added by this Act, not later than October 1, 2019.

SECTION 10. Effective date.

HOUSE VERSION (IE)

when the request was received, and the former law is continued in effect for that purpose. [FA1(1)]

SECTION 9. Same as Senate version.

SECTION 10. Same as Senate version.

CONFERENCE

SECTION 9. Same as Senate version.

SECTION 10. Same as Senate version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 25, 2019**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: SB944** by Watson (Relating to the public information law.), **Conference Committee Report**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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Based on analysis by the Office of the Attorney General, it is assumed that the provisions of the bill relating to public information could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.


**Source Agencies:** 302 Office of the Attorney General

**LBB Staff:** WP, CMa, JMO, CLo, NV

**Certification of Compliance with  
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under House Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not subject to a point of order under Rule 13.

I certify that a copy of the conference committee report on SB 944 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

  
(name)  
G. Capriglione

5/26/2019  
(date)