

SUBJECT: Exempting TDCJ employees' personal information from public access

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Hightower, Allen, Gray, Hupp, Marchant, Serna

0 nays

3 absent — Alexander, Edwards, Farrar

WITNESSES: For — Carlos Carrasco, AFSCME Council

Against — None

On — Jim Bush, Texas Department of Criminal Justice

BACKGROUND : Information collected, assembled or maintained under a law or ordinance or in connection with the transaction of official government business is considered public information and must be open to public access, unless some specific exception applies.

Government Code sec. 552.024 allows current or former government employees or officials to choose whether to allow public access to personal information about their home address, home telephone number, social security number and whether they have family members. If employees and officials want to keep this information confidential, they must elect to do so in writing within 14 days after they start or leave government service. If an employee or officials fails to state their choice within the 14-day window, the information is public.

Personal information about peace officers and security officers is exempt from the requirement that public information be made available to the public.

DIGEST: HB 2828 would exempt Texas Department of Criminal Justice (TDCJ) employees from the requirement that public information be made available to the public. To have personal information kept confidential, TDCJ employees would not have to follow the Government Code sec. 552.024

requirement that they notify their personnel office within 14 days of starting or leaving government service.

HB 2828 also would state that the provision that exempts from disclosure personal information about peace officers and security officers does not depend on whether they elect to make the information confidential.

HB 2828 would retroactively legalize past actions that the bill would authorize unless the action had been declared invalid by a final lawsuit begun or concluded before HB 2828's effective date.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

HB 2828 is necessary to curb abuses of the public information act by prison inmates and to ensure that the personal information of all TDCJ employees is kept confidential without their having to elect to do so. This bill proposes a necessary and reasonable restriction on public information. Any information that the public or an inmate may need for legal or other legitimate reasons could be obtained through other means.

HB 2828 would reinstate an exemption that TDCJ employees formerly had from allowing certain personal information from being open to the public. In the 1995 re-write of the state's open records law, this exemption was somehow eliminated. TDCJ employees should be treated like peace officers and security guards, whose personal information is automatically kept confidential.

TDCJ employees and their families should be afforded this special exemption because their work puts them in contact with prison inmates who sometimes use the employees' personal information for harassment, intimidation, retaliation and blackmail. This harassment can take many forms, including a kind of psychological game in which inmates might tell an employee that they know personal information such as that the employee has a young child. The state needs to protect TDCJ employees to help attract and retain good workers.

Although current law allows employees to elect to keep their information confidential, the approximately 300 to 500 employees hired by TDCJ each month should not have to go through this paperwork requirement during their busy first two weeks on the job. TDCJ now routinely tells its new employees about the confidentiality option, and since virtually all TDCJ employees elect to keep their information confidential, it would be more efficient to allow a blanket exemption.

It is only fair that HB 2828 should apply the confidentiality requirement to all TDCJ employees, regardless of whether they elected to keep their information confidential. One group of employees started work for TDCJ after the employees' exemption was eliminated in 1995 and before TDCJ began telling all new employees about the requirement. These employees did not know they had to turn in a written statement requesting that this personal information be kept confidential. These employees should be afforded the same confidentiality protections as other employees. HB 2828 would ensure that information subject to a lawsuit begun or finished before the bill became effective would not be subject to the retroactivity clause.

It would be not solve the problem of inmate access to personal information about TDCJ employees to prohibit just inmates from receiving the information but to allow other members of the public access to it. Inmates could easily get a friend or relative in the free world to obtain the information for them.

HB 2828 would not make any change to the protections already given to peace officers and security guards. It would simply clarify their exemption.

OPPONENTS
SAY:

TDCJ employees can currently have personal information kept confidential; they just have to elect to do so like all other state employees. TDCJ employees should be treated the same as other state employees.

Inmates using information about TDCJ employees to commit a crime should be prosecuted for the crime instead of restricting public information.

OTHER
OPPONENTS
SAY:

Prohibiting only TDCJ inmates from obtaining personal information on department employees, but not the general public, might address both the needs for open government and TDCJ employee protection.

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NOTES: The companion bill, SB 1544 by Ogden, has been reported favorably from the Senate State Affairs Committee and recommended for the Senate Local and Uncontested Calendar.