

- SUBJECT:** Considering photographs of prison inmates public information
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 7 ayes — Madden, D. Jones, R. Allen, Haggerty, Hochberg, McReynolds, Noriega  
0 nays
- WITNESSES:** None
- BACKGROUND:** Government Code, sec. 552 defines what is considered public information, and sec. 552.021 requires that the information be available to the public.
- Under sec. 552.134, with some exceptions, information obtained or maintained by the Texas Department of Criminal Justice about inmates is excepted from requirements that information be made available to the public. However, in sec. 552.029, eight types of information about inmates confined in Texas Department of Criminal Justice facilities are considered public information. Inmates' names, identification numbers, ages, birth places, and physical descriptions may be disclosed.
- DIGEST:** HB 2197 would include department photographs of inmates in Texas Department of Criminal Justice (TDCJ) correctional facilities among the types of information about inmates considered public information and therefore subject to disclosure.
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.
- SUPPORTERS SAY:** HB 2197 would clarify that TDCJ could continue considering photographs of inmates taken when they are admitted to a state facility to be public information. The department has had a longstanding policy of releasing these photos because it considers their release to be authorized under the public information laws, but questions recently were raised about whether this practice was authorized. A March 2004 attorney general open records letter ruling (OR2004-1756) said that because photographs were not one

of the eight types of information subject to public disclosure under Government Code sec. 552.029 they were excepted from disclosure. By explicitly making inmate photographs subject to disclosure as public information, HB 2197 would ensure that the agency could continue to release the photographs, which are used most often for public purposes by the news media and in emergency situations such as publicizing an escape.

Photographs of inmates are analogous to other inmate identifying information that is considered public. Releasing photographs is similar to releasing names or physical descriptions and should not be subject to any additional restrictions or raise any privacy issues not already overcome in the state's decision to release the other identifying information. TDCJ photographs are similar to mug shots taken of adults in connection with arrests and convictions, which generally are considered public information.

**OPPONENTS  
SAY:**

The list of inmate information considered public should stop short of inmate photographs in order to protect the privacy of inmates and their families. Current law allows for ample identifying information to be released to the public without including an official picture. When the news media publish an inmate's photograph or the public obtains one in another way, the inmate's privacy can be compromised unfairly and the inmate's innocent family members can suffer unwarranted shame and stigma.