

**SUBJECT:** Disclosing certain evidence of a crime that resulted in a person's death

**COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended

**VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

0 nays

**WITNESSES:** For — Jack Roady, Galveston County Criminal District Attorney; Steve Perkins; Scot Rice; Joe Tisdale; (*Registered, but did not testify*: Philip Mack Furlow, 106th District Attorney; Brian Hawthorne, Sheriffs Association of Texas; Thomas Parkinson; Michael Wolfe)

Against — None

**BACKGROUND:** Government Code sec. 552.108 exempts from requirements of public disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of a crime under certain circumstances.

Concerns have been raised that under current law, permitting family members to view certain evidence to gain closure related to a crime that resulted in a family member being killed or seriously injured would require that the evidence also be disclosed to the public.

**DIGEST:** CSHB 4174 would allow a prosecutor to permit a person to view certain evidence of a crime that resulted in the death of a person and that occurred in the prosecutor's jurisdiction, including:

- a medical examiner's report, if the person viewing the report was a family member of the person who was the subject of the report and the person who was the subject of the report was a victim of the crime; and
- video evidence of the crime, if the person viewing the video was a

victim of the crime or a family member of a victim of the crime.

"Medical examiner's report" would mean a report created by a medical examiner under law, including autopsy and toxicology reports but not including a photograph or medical image contained in a report.

A person could not duplicate, record, capture, or otherwise memorialize the medical examiner's report or video evidence. A prosecutor could require a person to sign a confidentiality agreement before viewing the information.

A permitted viewing of a medical examiner's report or video evidence under the bill would not be a voluntary disclosure of information for purposes of public information laws. By providing the information that was confidential or otherwise excepted from required disclosure under law, a governmental body would not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future.

The bill would not affect the right of a person to obtain a medical examiner's report or video evidence of a crime from a governmental body under other law, the procedures under which the information was obtained under other law, or the use that could be made of the information under other law.

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, 2021. The bill would apply to an offense that occurred before, on, or after the effective date.