

BILL ANALYSIS

Senate Research Center
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S.B. 1148
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Court records, unless sealed or restricted by rules of the court or statutes, are publicly available for viewing and copying. This has traditionally been the case in order to protect public access to court records and the right of the public to monitor the functioning of the courts. This access has historically been limited by the physical act of entering the courthouse and locating the documents and information among voluminous amounts of paper files. However, with the advent of the Internet, court documents can now be easily accessed from remote locations. In this day and age of increasing identity theft, the fact that personal and confidential information contained in court records can be easily accessed and manipulated must be addressed.

The Texas Judicial Council (council), the policymaking body for the state judiciary, studies methods to simplify judicial procedures, expedite court business, and better administer justice. In the council's August 2004 report on public access to court records, it recommended that the Texas Supreme Court "require that a Sensitive Data Form be completed for each case file whether in paper or electronic format." The council reasoned that such a form will help prevent identity theft by "minimizing the distribution and publication of certain personal identifying information."

As proposed, S.B. 1148 seeks to codify this recommendation. It directs the Texas Supreme Court to enact rules requiring that a sensitive data form be submitted in each court filing. The sensitive data form would include social security numbers, bank account numbers, credit card numbers, date of birth, and driver's license and passport numbers (excluding state bar numbers). Victims of crime would have their address and telephone number protected, and children would have their full names protected.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1 (Section 74.0241, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 74, Government Code, by adding Section 74.0241, as follows:

Sec. 74.0241. RULES REGARDING SENSITIVE INFORMATION. (a) Requires the supreme court, in adopting rules of administration, to require that in each action filed in a court of this state, each person filing a pleading or document in the action must submit to the court and to the other parties to the action a form containing certain sensitive information relevant to the action. Provides that the form may be in paper or electronic format.

(b) Requires each person filing a pleading or document in an action to include on the sensitive information form certain identifying and personal information with respect to each person involved in the action, if known and if relevant to the action.

(c) Prohibits a person from including any of the information required on the sensitive information form in the pleading or document, subject to certain exceptions.

(d) Sets forth the manner in which the pleading or document is required to refer to the sensitive information, if the sensitive information is required to be included in a pleading or other document filed in an action, unless the court orders otherwise.

(e) Requires the person and the person's attorney, if applicable, to ensure that sensitive information is omitted or redacted from a pleading or other document, except as provided by Subsection (d) or as otherwise ordered by the court. Provides that the court is not required to review the pleading or document to determine compliance with this section.

(f) Provides that the information contained on the sensitive information form is confidential and not subject to public release, unless the court orders otherwise.

(g) Requires the Texas Supreme Court to adopt rules of administration to implement and supplement this section. Sets forth the requirements for the rules.

(h) Provides that to the extent that this section conflicts with the Texas Rules of Judicial Administration or other rules, this section controls.

SECTION 2. Requires the Texas Supreme Court to adopt the rules required by Section 74.0241, Government Code, as added by this Act, not later than December 1, 2005. Provides that the rules adopted by the supreme court under that section apply to a pleading or other document filed on or after December 1, 2005.

SECTION 3. Effective date: upon passage or September 1, 2005.