

BILL ANALYSIS

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C.S.H.B. 2463
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Workforce Commission (TWC), under agreement with the federal Equal Employment Opportunity Commission, investigates complaints of employment discrimination. The state's Labor Code requires TWC to release the full files on an investigation to parties to the complaint. However, federal rules require identifying and sensitive information on confidential witnesses and on people who are not parties to the complaint to be redacted.

At the request of TWC, this bill places the substance of those exemptions into state statute and protects the right of employees to see the bulk of the file on their complaint's investigation.

C.S.H.B. 2463 amends current law relating to access to certain records regarding an employment discrimination claim.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Workforce Commission civil rights division is modified in SECTION 2 (Section 21.305, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 21.304, Labor Code, to prohibit an officer or employee of the Texas Workforce Commission civil rights division (division) from disclosing to the public information obtained by the division under Section 21.204 (Investigation by Commission) except in compliance with Section 21.305 (Access to Commission Records) and as necessary to the conduct of a proceeding under this chapter.

SECTION 2. Amends Section 21.305, Labor Code, as follows:

Sec. 21.305. ACCESS TO COMMISSION RECORDS. (a) Requires the division, except as provided by Subsection (c), to adopt rules allowing a party to a complaint filed under Section 21.201 (Filing of Complaint; Form and Content; Service) reasonable access to division records relating to the complaint.

(b) Requires the executive director of the division, except as provided by Subsection (c), unless the complaint is resolved through a voluntary settlement or conciliation, on the written request of a party, to allow the party access to the division records after the final action of the division, or if a civil action relating to the complaint is filed in federal court alleging a violation of federal law.

(c) Provides that the following information is not considered public information for the purposes of Chapter 552 (Public Information), Government Code, notwithstanding Section 552.023 (Special Right of Access to Confidential Information), Government Code, and prohibits it from being disclosed to a party to a complaint filed under Section 21.201:

(1) identifying information of persons other than the parties and witnesses to the complaint;

- (2) identifying information about confidential witnesses, including any confidential statement given by the witness;
- (3) sensitive medical information about the charging party or a witness to the complaint that is provided by a person other than the person requesting the information, and not relevant to issues raised in the complaint, including information that identifies injuries, impairments, pregnancies, disabilities, or other medical conditions that are not obviously apparent or visible;
- (4) identifying information about a person other than the charging party that is found in sensitive medical information regardless of whether the information is relevant to the complaint;
- (5) nonsensitive medical information that is relevant to the complaint if the disclosure would result in an invasion of personal privacy, unless the information is generally known or has been previously reported to the public;
- (6) identifying information about other respondents or employers not a party to the complaint;
- (7) information relating to settlement offers or conciliation agreements received from one party that was not conveyed to the other and information contained in a separate alternative dispute resolution file prepared for mediation purposes; and
- (8) identifying information about a person on whose behalf a complaint was filed if the person has requested that the person's identity as a complaining party remain confidential.

(d) Defines, in this section, "identifying information."

SECTION 3. Effective date: September 1, 2011.