

## **BILL ANALYSIS**

Senate Research Center  
87R1297 TSS-F

S.B. 508  
By: West  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current Texas law does not provide direct, specific protections for the information that is part of confidential court records or other materials related to a person who is the subject of a witness protection program. This would include information held by prosecutors or that is generated by or stored during a witness protection, security, and/or relocation program and the agencies involved.

These records and information could be disclosed under the state's discovery laws, through civil court procedures, or even under Texas open records or public information laws. This could be potentially dangerous when the information is connected to cases where there has been evidence of witness intimidation.

S.B. 508 could remedy this situation. It would amend Chapter 39 of the Code of Criminal Procedure, Chapter 30 of the Civil Practice and Remedies Code, and create an exception under Chapter 552, Government Code, to help ensure that witness protection information remains confidential.

If requested, S.B. 508 would require a private in camera review by a criminal or civil court judge who would decide if the information could be disclosed, produced, inspected, or released to a defendant or party in a criminal or civil case. An attorney representing the state or an agency involved would have standing to oppose any decision made by the courts to disclose or release information or materials connected to a witness protection case.

S.B. 508 creates a Class A misdemeanor offense for anyone who knowingly discloses any record, claim, writing, document, information, or other materials that are part of a witness protection case.

As proposed, S.B. 508 amends current law relating to the confidentiality of and discovery procedures relating to certain material regarding the protection or security of a witness and creates a criminal offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Authorizes this Act to be cited as the Tyrek Jenkins Act.

SECTION 2. Amends Article 39.14(a), Code of Criminal Procedure, to include Article 39.16 among the articles by which restrictions are provided on the state's requirements under procedural discovery provisions.

SECTION 3. Amends Chapter 39, Code of Criminal Procedure, by adding Article 39.16, as follows:

Art. 39.16. MATERIAL RELATED TO WITNESS PROTECTION OR SECURITY. (a) Provides that this article applies to any record, claim, writing, document, information, or other material:

(1) received, made, or kept by an agency or program with the primary purpose of protecting, securing, or relocating witnesses; or

(2) in the possession of the state and relating to the protecting, securing, or relocating of a witness by an agency or program described by Subdivision (1).

(b) Prohibits the state, notwithstanding Article 39.14 (Discovery), from producing for the defendant or permitting the inspection by the defendant of material described by Subsection (a) before the material has been submitted to the court for an in camera review and the court has determined that the production or inspection of the material is required under the United States Constitution or is otherwise necessary for a matter before the court.

(c) Requires the court, to preserve material for appellate review, to place any material reviewed in camera under this article under seal of the court.

(d) Provides that a prosecutor or other attorney representing an agency or program with the primary purpose of protecting, securing, or relocating witnesses has standing in any criminal action to oppose the disclosure of material under this article.

SECTION 4. Amends Chapter 30, Civil Practice and Remedies Code, by adding Section 30.0065, as follows:

Sec. 30.0065. MATERIAL RELATED TO WITNESS PROTECTION OR SECURITY.

(a) Provides that this section applies to any record, claim, writing, document, information, or other material:

(1) received, made, or kept by an agency or program with the primary purpose of protecting, securing, or relocating witnesses; or

(2) in the possession of the state and relating to the protecting, securing, or relocating of a witness by an agency or program described by Subdivision (1).

(b) Prohibits a party in a civil case from producing or releasing material described by Subsection (a) before the material has been submitted to the court for an in camera review and the court has determined that the production or release of the material is necessary for a matter before the court.

(c) Requires the court, to preserve material for appellate review, to place any material reviewed in camera under this section under seal of the court.

(d) Provides that a prosecutor or other attorney representing an agency or program with the primary purpose of protecting, securing, or relocating witnesses has standing in any civil action to oppose the disclosure of material under this section.

SECTION 5. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.1082, as follows:

Sec. 552.1082. EXCEPTION: CONFIDENTIALITY OF CERTAIN INFORMATION REGARDING WITNESS PROTECTION OR SECURITY. Provides that information is confidential and excepted from the requirements of Section 552.021 (Availability of Public Information) if the information is:

(1) received, made, or kept by an agency or program with the primary purpose of protecting, securing, or relocating witnesses; or

(2) in the possession of the state and relating to the protecting, securing, or relocating of a witness by an agency or program described by Subdivision (1).

SECTION 6. Amends Chapter 38, Penal Code, by adding Section 38.20, as follows:

Sec. 38.20. UNLAWFUL DISCLOSURE OF MATERIAL RELATED TO WITNESS PROTECTION OR SECURITY. (a) Provides that a person commits an offense if the person knowingly discloses any record, claim, writing, document, information, or other material:

(1) in violation of Article 39.16, Code of Criminal Procedure, or Section 30.0065, Civil Practice and Remedies Code; or

(2) in response to a request under Chapter 552 (Public Information), Government Code, when the record, claim, writing, document, information, or other material is confidential and excepted from disclosure under Section 552.1082, Government Code.

(b) Provides that an offense under this section is a Class A misdemeanor.

SECTION 7. (a) Makes application of Article 39.14, Code of Criminal Procedure, as amended by this Act, and Article 39.16, Code of Criminal Procedure, as added by this Act, prospective.

(b) Makes application of Section 30.0065, Civil Practice and Remedies Code, as added by this Act, prospective.

(c) Makes application of Section 552.1082, Government Code, as added by this Act, prospective.

SECTION 8. Effective date: September 1, 2021.