

BILL ANALYSIS

Senate Research Center
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H.B. 30
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Information held by law enforcement or a prosecutor that deals with the detection, investigation, or prosecution of a crime is protected from public disclosure under the Public Information Act if it does not result in a conviction or deferred adjudication. This measure was intended to protect the innocent suspect who is investigated for a crime but never convicted or is acquitted at trial. However, this protection has been used in cases where the suspect dies before an investigation or prosecution effort can be completed.

H.B. 30 closes this "dead suspect" loophole by providing an exception to the exception if the subject of the information is deceased or incapacitated and each other person mentioned in the information consents to its release.

H.B. 30 amends current law relating to access to certain law enforcement, corrections, and prosecutorial records under the public information law.

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. Amends Section 552.108, Government Code, by adding Subsections (d), (e), and (f), as follows:

(d) Provides that the exceptions to disclosure provided by Subsections (a)(2) (relating to providing that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 (Availability of Public Information) if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication) and (b)(2) (relating to providing that an internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication) do not apply to information, records, or notations if:

(1) a person who is described by or depicted in the information, record, or notation, other than a peace officer, is deceased or incapacitated; or

(2) each person who is described by or depicted in the information, record, or notation consents to the release of the information, record, or notation.

(e) Provides that Section 552.108 (Exception: Certain Law Enforcement, Corrections, and Prosecutorial Information) does not except from the requirements of Section 552.021 a letter, memorandum, or document regarding a police officer's alleged misconduct in the

police officer's personnel file under Section 143.089 (Personnel File), Local Government Code, if:

(1) a person who is described by or depicted in the letter, memorandum, or document, other than the police officer, is deceased or incapacitated; or

(2) each person who is described by or depicted in the letter, memorandum, or document consents to the release of the letter, memorandum, or document.

(f) Provides that a governmental body that releases information, records, or notations to a family member of a deceased or incapacitated person who is described by or depicted in the information, record, or notation is not considered to have voluntarily made that information available to the public for purposes of Section 552.007 (Voluntary Disclosure of Certain Information When Disclosure Not Required) and does not waive the ability to assert in the future that the information is excepted from required disclosure under this section or other law.

SECTION 2. Amends Section 143.089(g), Local Government Code, as follows:

(g) Prohibits a fire or police department (department), except as provided by Subsection (h) (relating to entitling a law enforcement agency hiring a police officer to view the contents of the officer's personnel file maintained under a certain subsection), from releasing any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer, other than information relating to a police officer's alleged misconduct in the police officer's personnel file, as permitted by Section 552.108, Government Code.

SECTION 3. Provides that Sections 552.108(d), (e), and (f), Government Code, as added by this Act, and Section 143.089(g), Local Government Code, as amended by this Act, apply to information, records, notations, letters, memoranda, and documents collected, made, assembled, or maintained before, on, or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2023.