

BILL ANALYSIS

C.S.H.B. 147
By: Moody
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about the unintended effects of certain exceptions in state public information law, which prevent public access to internal records or notations of a law enforcement agency or prosecutor relating to an investigation that does not result in a conviction or deferred adjudication. C.S.H.B. 147 seeks to increase transparency by setting out circumstances under which exceptions in that law do not apply to certain law enforcement, corrections, and prosecutorial records.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 147 amends the Government Code to make the exception from the public availability requirement of state public information law inapplicable to information held by a law enforcement agency or prosecutor 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 or to an agency or prosecutor internal record or notation that is maintained for certain internal use and relates to law enforcement only in relation to such an investigation if:

- a person who is the subject of the information, record, or notation, other than a peace officer, is deceased or incapacitated; or
- each person who is subject of the information, record, or notation consents to the release of the information, record, or notation.

C.S.H.B. 147 establishes that a letter, memorandum, or document regarding a police officer's alleged misconduct in the police officer's personnel file is not excepted from the public availability requirement of state public information law if:

- a person who is a subject of the letter, memorandum, or document, other than the police officer, is deceased or incapacitated; or
- each person who is a subject of the letter, memorandum, or document consents to the release of the letter, memorandum, or document.

C.S.H.B. 147 establishes that a governmental body that releases information, records, or

notations to a family member of a deceased or incapacitated person who is a subject of the information, record, or notation is not considered to have voluntarily made that information available to the public for purposes of state public information law and does not waive the ability to assert in the future that the information is excepted from required disclosure. The bill applies to information, records, notations, letters, memoranda, and documents collected, made, assembled, or maintained on, before, or after the bill's effective date.

C.S.H.B. 147 amends the Local Government Code to make a conforming change.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 147 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the types of persons for whom the exception from the public availability requirement relating to certain information is inapplicable:

- by including a person who is incapacitated and the subject of certain information; and
- by excluding a peace officer who is the subject of certain information.

The substitute includes a provision establishing that a letter, memorandum, or document regarding a police officer's alleged misconduct in the police officer's personnel file is not excepted from the public availability requirement under certain conditions.

The substitute includes a provision establishing that a governmental body that releases certain information to a family member of a deceased or incapacitated person who is a subject of the information is not considered to have voluntarily made that information available to the public.