

SUBJECT: Prohibiting withholding most dates of birth under public information laws

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 13 ayes — Phelan, Hernandez, Deshotel, Guerra, Harless, Holland,
Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

WITNESSES: For — Ray Allen, PublicData.com; David Foy, RELX; Teri Flack, Texas State Genealogical Society; (*Registered, but did not testify*: John Bridges, Austin American-Statesman, Freedom of Information Foundation of Texas, Texas Press Association; Lorena Campos, City of Dallas; Dave Jones, Clean Elections Texas; Anthony Gutierrez, Common Cause Texas; Chelsy Hutchison, Experian; Kelley Shannon, Freedom of Information Foundation of Texas; Michael Coleman, Public Citizen; Jeff Heckler, PublicData.com; Jack Erskine, R.L. Polk; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett and Bill Patterson, Texas Press Association; Stephanie Ingersoll)

Against — None

On — (*Registered, but did not testify*: Justin Gordon, Office of the Attorney General)

BACKGROUND: Government Code sec. 552, the Public Information Act, requires governmental bodies to disclose information to the public upon request, unless that information is considered confidential by constitutional or statutory law or judicial decision and excepted from public disclosure.

Sec. 552.102 excepts information in a personnel file from public disclosure, except that all information in the file of an employee of a governmental body is to be made available to that employee as public information.

Some have noted that access to dates of birth in public records has been

closed off since the 2015 Third Court of Appeals ruling in *Paxton v. City of Dallas*, which stated that all dates of birth covered under the Public Information Act were confidential. Some contend that dates of birth are vitally important to monitor the actions of public officers, to ensure the accuracy of information, for news reporting, for identity verification in the context of elections, credit checks, loan decisions, and crime reporting, and for other purposes.

DIGEST:

CSHB 1655 would specify that the Texas Public Information Act would not authorize a governmental body to withhold a date of birth, except as permitted by Government Code sec. 552.102, federal privacy requirements under the Health Insurance Portability and Accountability Act, or constitutional or statutory law.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019, and would apply only to a request for information received by a governmental body on or after the effective date.