

SUBJECT: Disclosure of certain information about communicable diseases under PIA

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Klick

WITNESSES: For — Wesley Lewis, Freedom of Information Foundation of Texas; Leonard Woolsey, The Galveston County Daily News and Texas Press Association; Cissy Sanders; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Kelley Shannon, Freedom of Information Foundation of Texas; Patricia Ducayet, Office of the State Long-Term Care Ombudsman; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett and Mike Hodges, Texas Press Association; Laura Prather, Transparent & Accountable Government Coalition; Thomas Parkinson)

Against — None

On — Avery Travis

BACKGROUND: Government Code ch. 522, the Public Information Act, gives the public the right to request access to government information, with some exceptions to required public disclosure for certain information, such as protected health information.

Health and Safety Code sec. 181.006 establishes that, for a governmental unit subject to the Health Insurance Portability and Accountability Act (HIPAA), an individual's protected health information:

- includes any information that reflects the individual received health care from the governmental unit; and
- is not public information and is not subject to disclosure under the

Public Information Act.

Some have suggested that during the earlier months of the COVID-19 pandemic, some residential health care facilities lacked transparency regarding the spread of communicable diseases within the facilities, making it difficult for residents and their families to make informed health care decisions. Suggestions have been made to codify an attorney general open records letter ruling issued in July 2020 that required the public disclosure of the names and locations of nursing homes and assisted living facilities where residents contracted COVID-19.

DIGEST: HB 3306 would establish that, unless made confidential under other law, certain information would not be confidential and would be subject to disclosure under the Public Information Act.

Protected health information under current law would not include information that identified:

- the name or location of a facility in which residents had been diagnosed with a communicable disease; or
- the number of residents who had been diagnosed with a communicable disease in a facility.

The bill would apply to a licensed nursing facility, continuing care facility, and an assisted living facility.

The bill would make conforming changes under current law.

The bill would take effect September 1, 2021.