

SUBJECT: Revising procedures for disclosure of certain public information

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Hunter, Dean, Geren, Guillen, Metcalf, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

3 absent — Hernandez, Anchía, Raymond

SENATE VOTE: On final passage (April 27) — 31 - 0

WITNESSES: For — (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Michael Schneider, Texas Association of Broadcasters)

Against — (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Alexa Aragonese, City of Houston, Mayor's Office; Christine Wright, City of San Antonio; Randy Lee, San Antonio Water System; Chuck Rice, Texas Association of County Auditors)

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

BACKGROUND: Government Code sec. 552.101 exempts information considered to be confidential by constitutional or statutory law or by judicial decision from disclosure under the Public Information Act.

Sec. 552.303(e) establishes that information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold it if a governmental body does not request an attorney general decision about whether the requested information is exempt from disclosure requirements.

Concerns have been raised that some sections of state public information

law have become outdated due to technological advances and changes in public information practices. Some have suggested that revising these provisions and establishing certain definitions could increase transparency, openness, and accountability in government.

DIGEST: SB 1658 would specify that Government Code sec. 552.101 did not apply to the attorney-client privilege, the work product privilege, another exception to disclosure under the Public Information Act, or a state or federal discovery privilege.

The bill also would specify that certain statutory exemptions from disclosure requirements under the Public Information Act would not constitute compelling reasons for a governmental body to withhold the requested information under Government Code sec. 552.302. The exclusion of an exception to disclosure from those specified by the bill would not create a presumption that the exception constituted a compelling reason to withhold information.

The bill would establish that, for the purposes of the body-worn camera program, a reference to a “recording” by a body-worn camera, however phrased, would mean an audio recording, a video recording, or an audiovisual recording.

The bill would establish that the exemption from public disclosure requirements of certain information held by a law enforcement agency or prosecutor that dealt with the detection, investigation, or prosecution of crime would not apply to any basic information, rather than only basic information about an arrested person, an arrest, or a crime.

SB 1658 would repeal certain procedures related to how governmental bodies respond to requests for information that require programming or data manipulation.

The bill would take effect September 1, 2023, and would apply only to requests for public information that were received on or after the bill’s effective date.