

By: Capriglione

H.B. No. 2191

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the public information law.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 552.003, Government Code, is amended by
5 adding Subdivision (7) to read as follows:

6 (7) "Temporary custodian" means an officer or employee
7 of a governmental body who, in the transaction of official
8 business, creates or receives public information that the officer
9 or employee has not provided to the officer for public information
10 of the governmental body or the officer's agent. The term includes
11 a former officer or employee of a governmental body who created or
12 received public information in the officer's or employee's
13 official capacity that has not been provided to the officer for
14 public information of the governmental body or the officer's agent.

15 SECTION 2. Section 552.004, Government Code, is amended to
16 read as follows:

17 Sec. 552.004. PRESERVATION OF INFORMATION. (a) A
18 governmental body or, for information of an elective county office,
19 the elected county officer, may determine a time for which
20 information that is not currently in use will be preserved, subject

1 to Subsection (b) and to any applicable rule or law governing the
2 destruction and other disposition of state and local government
3 records or public information.

4 (b) A current or former officer or employee of a governmental
5 body who maintains public information on a privately owned device
6 shall:

7 (1) forward or transfer the public information to the
8 governmental body or a governmental body server to be preserved as
9 provided by Subsection (a); or

10 (2) preserve the public information in its original
11 form on the privately owned device for the time described under
12 Subsection (a).

13 (c) The provisions of Chapter 441 of this code and Title 6,
14 Local Government Code, governing the preservation, destruction, or
15 other disposition of records or public information apply to records
16 and public information held by a temporary custodian.

17 SECTION 3. Subchapter C, Chapter 552, Government Code, is
18 amended by adding Section 552.159 to read as follows:

19 Sec. 552.159. EXCEPTION: CONFIDENTIALITY OF CERTAIN
20 HEALTHCARE INFORMATION. A record of the identity, diagnosis,
21 evaluation, or treatment of a patient by a physician or hospital
22 that is created or maintained by a physician or hospital is
23 confidential and excepted from the requirements of Section

1 552.021.

2 SECTION 4. Section 552.203, Government Code, is amended to
3 read as follows:

4 Sec. 552.203. GENERAL DUTIES OF OFFICER FOR PUBLIC
5 INFORMATION. Each officer for public information, subject to
6 penalties provided in this chapter, shall:

7 (1) make public information available for public
8 inspection and copying;

9 (2) carefully protect public information from
10 deterioration, alteration, mutilation, loss, or unlawful removal;
11 [~~and~~]

12 (3) repair, renovate, or rebind public information as
13 necessary to maintain it properly; and

14 (4) make reasonable efforts to obtain public
15 information from a temporary custodian if:

16 (A) the information has been requested from the
17 governmental body;

18 (B) the officer for public information is aware of
19 facts sufficient to warrant a reasonable belief that the temporary
20 custodian has possession, custody, or control of the information;

21 (C) the officer for public information is unable
22 to comply with the duties imposed by this chapter without obtaining
23 the information from the temporary custodian; and

1 (D) the temporary custodian has not provided the
2 information to the officer for public information or the officer's
3 agent.

4 SECTION 5. Subchapter E, Chapter 552, Government Code, is
5 amended by adding Sections 552.233, 552.234, and 552.235 to read
6 as follows:

7 Sec. 552.233. OWNERSHIP OF PUBLIC INFORMATION. (a) A
8 current or former officer or employee of a governmental body does
9 not have, by virtue of the officer's or employee's position or
10 former position, a personal or property right to public information
11 the officer or employee created or received while acting in an
12 official capacity.

13 (b) A temporary custodian with possession, custody, or
14 control of public information shall surrender or return the
15 information to the governmental body not later than the 10th day
16 after the date the officer for public information of the
17 governmental body or the officer's agent requests the temporary
18 custodian to surrender or return the information.

19 (c) A temporary custodian's failure to surrender or return
20 public information as required by Subsection (b) is grounds for
21 disciplinary action by the governmental body that employs the
22 temporary custodian or any other applicable penalties provided by
23 this chapter or other law.

1 (d) For purposes of the application of Subchapter G to
2 information surrendered or returned to a governmental body by a
3 temporary custodian under Subsection (b), the governmental body is
4 considered to receive the request for that information on the date
5 the information is surrendered or returned to the governmental
6 body.

7 Sec. 552.234. DESIGNATED ELECTRONIC MAIL AND MAILING
8 ADDRESSES FOR PUBLIC INFORMATION REQUESTS. A governmental body
9 may designate one electronic mail address and one mailing address
10 for receiving written requests for public information. If an
11 inquiry is made to a governmental body regarding the procedures
12 for requesting public information, the governmental body shall
13 provide the designated electronic mail and mailing addresses. A
14 governmental body that posts the designated electronic mail and
15 mailing addresses on the governmental body's Internet website is
16 not required to respond to a written request for public information
17 that is not received at one of those addresses.

18 Sec. 552.235. PUBLIC INFORMATION REQUEST FORM. (a) The
19 attorney general shall create a public information request form
20 that provides a requestor the option of excluding from a request
21 information that the governmental body determines is:

22 (1) confidential; or

23 (2) subject to an exception to disclosure that the

1 governmental body would assert if the information were subject to
2 the request.

3 (b) A governmental body that allows requestors to use the
4 form described by Subsection (a) and maintains an Internet website
5 shall post the form on its website.

6 SECTION 6. Section 552.301(c), Government Code, is amended
7 to read as follows:

8 (c) For purposes of this subchapter and subject to Section
9 552.234, a written request includes a request made in writing that
10 is sent to the officer for public information, or the person
11 designated by that officer, by electronic mail or facsimile
12 transmission.

13 SECTION 7. The attorney general shall create a public
14 information request form under Section 552.235(a), Government
15 Code, as added by this Act, not later than October 1, 2019.

16 SECTION 8. The changes in law made by this Act apply only to
17 a request for public information received on or after the effective
18 date of this Act. A request for public information received before
19 the effective date of this Act is governed by the law in effect
20 when the request was received, and the former law is continued in
21 effect for that purpose.

22 SECTION 9. This Act takes effect September 1, 2019.