

CHAPTER 98

S.B. No. 360

AN ACT

relating to making confidential a record that would identify a person who uses library services or materials.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) All information collected, assembled, or maintained by or for governmental bodies, except in those situations where the governmental body does not have either a right of access to or ownership of the information, pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in the personnel files of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure the degree obtained and the curriculum on such transcripts of professional public school employees, and further provided that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

(4) information which, if released, would give advantage to competitors or bidders;

(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

(6) drafts and working papers involved in the preparation of proposed legislation;

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution;

(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency;

(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act;

(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency or an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code;

(14) student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, that student's parent, legal guardian, or spouse or a person conducting a child abuse investigation required by Section 34.05, Family Code;

(15) birth and death records maintained by the Bureau of Vital Statistics of the Texas Department of Health, except that:

(A) a birth record is public information and available to the public on and after the 50th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official; and

(B) a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official;

(16) the audit working papers of the State Auditor;

(17) information relating to:

(A) the home addresses or home telephone numbers of each official or employee or each former official or employee of a governmental body except as otherwise provided by Section 3A of this Act, or of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code; or

(B) the home addresses, home telephone numbers, or social security numbers of employees of the Texas Department of Criminal Justice, or the home or employment addresses or telephone numbers or the names or social security numbers of their family members;

(18) information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 481.075, Health and Safety Code;

(19) photographs that depict a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer unless:

(A) the officer is under indictment or charged with an offense by information; or

(B) the officer is a party in a fire or police civil service hearing or a case in arbitration;
or

(C) the photograph is introduced as evidence in a judicial proceeding;

(20) rare books and original manuscripts which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research;

(21) oral history interviews, personal papers, unpublished letters, and organizational records of nongovernmental entities, which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research, to the extent that the archival and manuscript repository and the donor of the interviews, papers, letters, and records may agree to limit disclosure of the item;

(22) curriculum objectives and test items developed by educational institutions that are funded wholly or in part by state revenue and test items developed by licensing agencies or governmental bodies; [and]

(23) the names of applicants for the position of chief executive officer of institutions of higher education, except that the governing body of the institution of higher education must give public notice of the name or names of the finalists being considered for the position at least 21 days prior to the meeting at which final action or vote is to be taken on the employment of the individual; *and*

(24) records of a library or library system, supported in whole or in part by public funds, that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:

(A) because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system, and the records are not confidential under other state or federal law;

(B) under Section 3B of this Act; or

(C) to a law enforcement agency or a prosecutor under a court order or subpoena obtained after a showing to a district court that:

(i) disclosure of the records is necessary to protect the public safety; or

(ii) the records are evidence of an offense or constitute evidence that a particular person committed an offense.

(g) Records of a library or library system that are excepted from required disclosure under Subsection (a)(24) of this section are confidential.

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the

constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 16, 1993, by a viva-voce vote; passed the House on April 27, 1993, by a non-record vote.

Approved May 7, 1993.

Effective Sept. 1, 1993.