



KEN PAXTON  
ATTORNEY GENERAL *of* TEXAS

# State of the Public Information Act

What has changed, what hasn't, and what to watch out for

Justin Gordon

Division Chief, Open Records Division



# Texas Public Information Act (the "Act")

- Originally Adopted as the Open Records Act in 1973
- Found in Chapter 552 of the Government Code
- 34,327 Open Records Letter Rulings issued in fiscal year 2021
- 688 Open Records Decisions issued since 1973
- Chapters 63 and 70 of title 1 of the Texas Administrative Code have rules related to the administration of the Act

# Senate Bill 1225 (Slide 1 of 2)

- Section 552.233
- Modifies “catastrophe” to mean an event or occurrence that directly interferes with a governmental body’s ability to comply with Chapter 552.
- Catastrophe does not include when the governmental body (GB) is required to work remotely and has access to electronic information.
- A GB may not initiate another suspension period for the same catastrophe, except for a one-time single extension.
- The combined time for the initial and extended suspension may not exceed more than 14 calendar days.

# Senate Bill 1225 (Slide 2 of 2)

- Once the suspension period is up, the GB shall immediately resume compliance with Chapter 552.
- While working remote, the GB shall make a good faith effort to continue responding to applications for public information.
- Failure to put forth a good faith effort may constitute a refusal to request an attorney general's opinion or a refusal to supply public information.
- Effective on September 1, 2021.

# Senate Bill 1134 (Slide 1 of 2)

- Amends section 552.117(a)(15), the following are now also included as a “federal judge”:
  - A federal bankruptcy judge
  - A marshal of the United States Marshal Service
  - A United States Attorney
  - A family member of one of the three above

# Senate Bill 1134 (Slide 2 of 2)

- Adds subsection 552.117(c) to define a “family member” as the same meaning assigned in Section 31.006 of the Finance Code.
- “Family member” means a spouse, minor child, or adult child who resides in the person’s home.
- Effective on September 1, 2021.

# House Bill 1082

- HB 1082 broadens the applicability of certain sections within the Government and Tax Codes.
- With respect to Sections 552.117 and 552.1175, Government Code, and Section 25.025, Tax Code, a “state officer [elected statewide or a member of the legislature]” is replaced with “**an elected public officer**”.
- Effective immediately on May 19, 2021.

# House Bill 2357

- Adds Subsection (c) to Article 49.25 of the Code of Criminal Procedure to restrict what constitutes a disclosure for purposes of the Public Information Act.
- If a medical examiner's office elects to disclose an autopsy report of a deceased person to an organ or tissue procurement organization, hospital, or other covered entity that treated the deceased person before death or gave them an anatomical gift, this report is not a disclosure under Chapter 552.
- Adds section 552.1315, an exception for confidentiality of identifying information from certain crime victim records from the requirements of Section 552.021.
- Effective immediately on June 15, 2021.



# House Bill 2857

- Updates what information is publicly available when it is related to taxpayers subject to an audit.
- The comptroller may not provide information that:
  - (1) relates to a taxpayer the comptroller is auditing or intends to audit;
  - (2) is considered public information under Chapter 552, Government code; and
  - (3) is requested from the comptroller by a person under Chapter 552, Government codeto a person other than the taxpayer to whom the information relates earlier than the 14th day after the date the comptroller mails the notice of intent to audit to the taxpayer.
- Applies only to information on or after the effective date of the Act.

# Senate Bill 930

- SB 930 states that certain information pertaining to communicable diseases is not confidential.
- Adds section 181.060 in the Health and Safety Code
- Unless made confidential under other law, the following information regarding communicable diseases is not confidential for purposes of Chapter 552, Government code:
  - (1) the name or location of a facility in which residents have been diagnosed with a communicable disease; or
  - (2) the number of residents who have been diagnosed with a communicable disease in a facility.
- Effective on September 1, 2021.

# House Bill 872 (Slide 1 of 2)

- Adds Section 552.1331.
- Information maintained by a government-operated utility is excepted if it is information that:
  - (1) is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage; or
    - Exception: If a customer of the utility makes the request and the information relates directly to the utility services provided to the customer and is not confidential under other law.
  - (2) reveals whether:
    - (A) an account is delinquent or eligible for disconnection; or
    - (B) services have been discontinued by the government-operated utility.

# House Bill 872 (Slide 2 of 2)

- A government-operated utility shall provide notice and the form in which a customer can request a disclosure by including it on the customer's bill or by posting it on the **utility's Internet website**.
- Customers may now send in their form for disclosure either by mail or electronically.
- A customer may rescind a request for disclosure by providing the government-operated utility a written request to withhold the customer's personal information beginning on the date the utility receives the request.
- Effective immediately.



Looking Forward . . .

# Questions?

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(877) OPEN TEX  
(512) 478-6736

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