

SUBJECT: Making a recording or transcript of an emergency call confidential

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 8 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Wray

1 nay — Schaefer

WITNESSES: For — Jonathan McComb; (*Registered, but did not testify:* Tom Tagliabue, City of Corpus Christi; Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); James McLaughlin, Texas Police Chiefs Association; Keith Oakley, Texas Association of Licensed Investigators; Kevin Hagedorn)

Against — (*Registered, but did not testify:* Kelley Shannon, Freedom of Information Foundation of Texas; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett, Texas Press Association)

On — Kathy Mitchell, Texas Criminal Justice Coalition

BACKGROUND: The Public Information Act (Government Code, ch. 552) requires governmental bodies to disclose information to the public upon request unless that information is excepted from disclosure. Subchapter G establishes the process by which a governmental body must request an attorney general decision if it wishes to withhold information from public disclosure under a statutory exception.

DIGEST: CSHB 3640 would create a new exception to disclosure under the Public Information Act and make confidential a recording or transcript of an emergency call made to a public safety agency or a public safety answering point. A governmental body could withhold this information without requesting an attorney general decision.

Unless otherwise excepted from required disclosure under other law, the

information would have to be disclosed to a requestor who:

- had the express consent of the person who placed the emergency call or of the person's legal representative;
- was a licensed investigator who certified that the information would be used only in conjunction with a civil, criminal, administrative, or arbitral proceeding in a court or government agency; or
- was a first responder.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 3640 would address concerns that the availability of recordings and transcripts of 911 calls to entities or individuals compounds the grief of families who have gone through awful and tragic circumstances, especially if those emergency calls were released without prior knowledge of the victim or the victim's family. This bill would help protect these families by allowing recordings and transcripts of 911 calls to be confidential and released only in certain circumstances.

The bill would not affect public safety or government accountability, nor would it make it impossible to obtain the recordings or transcripts, because the information still could be released to first responders, licensed investigators, or a requestor who had the express consent of the person who placed the call or of the caller's legal representative.

**OPPONENTS
SAY:**

CSHB 3640 unintentionally could impact public safety or negatively affect government accountability. The timely release of a 911 recording could alert a community to an ongoing threat or provide necessary information that helped authorities locate a suspect. Access to emergency calls helps the public monitor whether 911 systems are working well and serving the public properly.

OTHER

To better balance the interests of victims and their families with the

**OPPONENTS
SAY:**

public's right to information, CSHB 3640 should make only the recordings of 911 calls confidential, allowing transcripts to be available for public accountability. Further, law enforcement should have the discretion to release a tape of a 911 call if it were in the interest of public safety.