

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1512
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Open Government
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1512 amends what must be disclosed under the Texas Public Information Act to exclude certain crime scene pictures. Specifically, pictures that depict a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia are not required to be disclosed under an open records request.

While credentialed newspapers in Texas are unlikely to reproduce these pictures in the paper, the problem lies in ordinary people being able to request the pictures and then reproducing them on the Internet. This makes it very difficult for the victims' families to move on and heal after losing a loved one.

There are several exceptions as to who can view and reproduce the pictures. First, there is an exception for a victim's next of kin, or for someone who has permission from the victim's next of kin. Also, a defendant in the case, or the defendant's representative, may view and reproduce the pictures as necessary for the criminal case. There are also exceptions for credentialed members of the press as well as those associated with a credentialed university who want to view or reproduce the pictures. Finally, a judge can order the release of the pictures if disclosure is in the public's best interest.

C.S.S.B. 1512 amends current law relating to the confidentiality of certain crime scene photographs and video recordings and provides a criminal penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 56, Code of Criminal Procedure, by adding Subchapter E, as follows:

SUBCHAPTER E. CONFIDENTIALITY OF CRIME SCENE PHOTOGRAPHS AND RECORDINGS

Art. 56.151. DEFINITIONS. Defines "deceased person's next of kin," "local governmental entity," "news media," "public or private institution of higher education," "sensitive crime scene image," and "state agency" in this subchapter.

Art. 56.152. APPLICABILITY. (a) Provides that this subchapter applies to a state agency and a local governmental entity.

(b) Provides that this subchapter applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

Art. 56.153. CONFIDENTIALITY OF SENSITIVE CRIME SCENE IMAGES. (a) Provides that a sensitive crime scene image in the custody of a person to whom this

subchapter applies is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

(b) Prohibits the custodian of a sensitive crime scene image from permitting a person to view or copy the image except as provided by this subchapter.

Art. 56.154. RIGHT TO VIEW AND COPY SENSITIVE CRIME SCENE IMAGES.

(a) Entitles the following persons, except as provided by Subsections (c) and (d), to view a sensitive crime scene image:

(1) the deceased person's next of kin;

(2) a person authorized in writing by the deceased person's next of kin;

(3) a defendant being prosecuted for the death of the deceased person or the defendant's attorney or a person convicted of an offense in relation to that death and appealing that conviction or that person's attorney;

(4) a bona fide member of the news media who is engaging in a news-gathering activity; and

(5) a person performing bona fide research sponsored by a public or private institution of higher education with approval of a supervisor of the research or supervising faculty member.

(b) Entitles the following persons, except as provided by Subsections (c) and (d), to make a copy of a sensitive crime scene image:

(1) the deceased person's next of kin;

(2) a person authorized in writing by the deceased person's next of kin;

(3) a defendant being prosecuted for an offense in which the death of the deceased person is relevant to an element of the offense or a defense to the offense or the defendant's attorney, or a person appealing a conviction of an offense in which that death is relevant to the appeal or that person's attorney;

(4) a bona fide member of the news media who is engaging in a news-gathering activity; and

(5) a person performing bona fide research sponsored by a public or private institution of higher education with approval of a supervisor of the research or supervising faculty member.

(c) Requires the custodian of a sensitive crime scene image to notify the deceased person's next of kin of the request for the image from a person described by Subsection (a)(4), (a)(5), (b)(4), or (b)(5) not later than the 14th business day after the date the custodian receives the request. Prohibits the custodian from releasing the image before the 30th business day after the date the custodian provides the notice. Prohibits the custodian, if the deceased person's next of kin objects to the release of the image before that date, from releasing the image.

(d) Authorizes the custodian of a sensitive crime scene image to refuse to release the image if the image is held by a law enforcement agency or prosecutor and is information that would be excepted from the requirements of Section 552.021 (Availability of Public Information), Government Code, under Section 552.108 (Exception: Certain Law Enforcement, Corrections, and Prosecutorial Information), Government Code.

(e) Authorizes the custodian of a sensitive crime scene image to release the image to a law enforcement agency or other state agency or local governmental entity for the purposes of investigating or prosecuting a crime.

Art. 56.155. PENALTIES. (a) Provides that a person commits an offense if the person knowingly violates Article 56.153(b).

(b) Provides that an offense under this article is a Class C misdemeanor.

SECTION 2. (a) Provides that the change in law made by this Act applies only to the disclosure or copying of a crime scene photograph or recording on or after September 1, 2013.

(b) Provides that the disclosure or copying of a crime scene photograph or recording before September 1, 2013, is covered by the law in effect when the photograph or recording was disclosed or copied, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.