

BILL ANALYSIS

Senate Research Center
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H.B. 2357
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In this age of information dissemination via social media and other outlets that do not have stringent oversight protections for child abuse victims, the issue of privacy and confidentiality gets lost when it comes to children who are victims of crimes.

Children even after they grow into adulthood have the right to privacy and the right to prevent online disclosure of court documents of a criminal case even when the criminal case is over. In addition, there are safety measures to protect the child's identity at the time law enforcement is called. The victim does not have to rely on general constitutional privacy law and motions to seal in order to be afforded such protections.

Juvenile perpetrators are afforded protection from the disclosure online or to the public via a specific statute in the Government Code dealing with open records. That protection should at least be afforded to child victims of abuse and sexual assault in a specific statute.

H.B. 2357 codifies the best practices of law enforcement agencies investigating abuse and sexual assault of children. Law enforcement would now be obligated to offer the victim, their parent, conservator, or legal guardian a pseudonym. At this time law enforcement is only required to use a pseudonym upon request of the victim.

Child victims are too young to make such a decision, parents may not be aware of such an option, and law enforcement may not voluntarily offer such an option. It is usually later on that the district attorneys office will ask for redaction of identifying information and that requires detectives and other law enforcement officers to go back to their reports and notes and redact the information—a burdensome process. (There is some discussion on why this process should not be mandatory vs. voluntary whereby the child has no rights and it is the parent who makes a decision to not protect the child's name by agreeing to a pseudonym).

H.B. 2357 amends current law relating to an exception from required disclosure of information related to certain crime victims.

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 Subchapter C, Chapter 552, Government Code, by adding Section 552.1315, as follows:

Sec. 552.1315. EXCEPTION: CONFIDENTIALITY OF CERTAIN CRIME VICTIM RECORDS. (a) Provides that information is confidential and excepted from the requirements of Section 552.021 (Availability of Public Information) if the information identifies an individual as:

- (1) a victim of:

(A) an offense under Section 20A.02 (Trafficking of Persons), 20A.03 (Continuous Trafficking of Persons), 21.02 (Continuous Sexual Abuse of Young Child or Children), 21.11 (Indecency with a Child), 22.011 (Sexual Assault), 22.021 (Aggravated Sexual Assault), 43.05 (Compelling Prostitution), or 43.25 (Sexual Performance by a Child), Penal Code; or

(B) an offense that is part of the same criminal episode, as defined by Section 3.01 (Definition), Penal Code, as an offense described by Paragraph (A); or

(2) a victim of any criminal offense, if the victim was younger than 18 years of age when any element of the offense was committed.

(b) Authorizes information under this section, notwithstanding Subsection (a), to be disclosed:

(1) to any victim identified by the information, or to the parent or guardian of a victim described by Subsection (a)(2) who is identified by the information;

(2) to a law enforcement agency for investigative purposes; or

(3) in accordance with a court order requiring the disclosure.

SECTION 2. Provides that the change in law made by this Act applies to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act. Provides that a request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: upon passage or September 1, 2021.