

By: Reynolds

H.B. No. 4323

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of identifying information of certain child victims.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 57E to read as follows:

CHAPTER 57E. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF CERTAIN CHILD VICTIMS

Art. 57E.01. DEFINITIONS. In this chapter:

(1) "Child" means a person who is younger than 18 years of age.

(2) "Pseudonym" means a set of initials or a fictitious name chosen by a victim to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings.

(3) "Public Servant" has the meaning assigned by Section 1.07(a), Penal Code.

(4) "Victim" means a child who was the subject of:
(A) an offense under Sections 20A.02(a)(5), (6), (7), or (8), 21.02, 21.11, 22.01, 22.011, 22.02, 22.021, 43.02(a), 43.05(a)(2), 43.21, or 43.25, Penal Code; or

(B) an offense that is part of the same criminal episode, as defined by Section 3.01, Penal Code, as an offense

1 described by Paragraph (A).

2 Art. 57E.02. CONFIDENTIALITY OF FILES AND RECORDS. (a) The
3 office of the attorney general shall develop and distribute to all
4 law enforcement agencies of the state a pseudonym form to record the
5 name, address, telephone number, and pseudonym of a victim.

6 (b) The law enforcement agency investigating the offense
7 shall offer the victim a pseudonym to be used instead of the
8 victim's name to designate the victim in all public files and
9 records concerning the offense, including police summary reports,
10 press releases, and records of judicial proceedings. A victim who
11 elects to use a pseudonym as provided by this article must complete
12 a pseudonym form developed under this article and return the form to
13 the law enforcement agency investigating the offense.

14 (c) A victim who completes and returns a pseudonym form to
15 the law enforcement agency investigating the offense may not be
16 required to disclose the victim's name, address, and telephone
17 number in connection with the investigation or prosecution of the
18 offense.

19 (d) A completed and returned pseudonym form is confidential
20 and may not be disclosed to any person other than a defendant in the
21 case or the defendant's attorney, except on an order of a court of
22 competent jurisdiction. The court finding required by Subsection
23 (g) is not required to disclose the confidential pseudonym form to
24 the defendant in the case or to the defendant's attorney.

25 (e) If a victim completes and returns a pseudonym form to a
26 law enforcement agency under this article, the law enforcement
27 agency receiving the form shall:

1 (1) remove the victim's name and substitute the
2 pseudonym for the name on all reports, files, and records in the
3 agency's possession;

4 (2) notify the attorney for the state of the pseudonym
5 and that the victim has elected to be designated by the pseudonym;
6 and

7 (3) maintain the form in a manner that protects the
8 confidentiality of the information contained on the form.

9 (f) An attorney for the state who receives notice that a
10 victim has elected to be designated by a pseudonym shall ensure that
11 the victim is designated by the pseudonym in all legal proceedings
12 concerning the offense.

13 (g) A court of competent jurisdiction may order the
14 disclosure of a victim's name, address, and telephone number only
15 if the court finds that the information is essential in the trial of
16 the defendant for the offense or the identity of the victim is in
17 issue.

18 (h) Except as required or permitted by other law or by court
19 order, a public servant or other person who has access to or obtains
20 the name, address, telephone number, or other identifying
21 information of a victim may not release or disclose the identifying
22 information to any person who is not assisting in the
23 investigation, prosecution, or defense of the case. This
24 subsection does not apply to the release or disclosure of a victim's
25 identifying information by:

26 (1) the victim; or

27 (2) the victim's parent, conservator, or guardian,

1 unless the victim's parent, conservator, or guardian allegedly
2 committed the offense described by Article 57E.01(4).

3 Art. 57E.03. OFFENSE. (a) A public servant with access to
4 the name, address, or telephone number of a victim who has a
5 pseudonym under this chapter commits an offense if the public
6 servant knowingly discloses the name, address, or telephone number
7 of the victim to any person who is not assisting in the
8 investigation or prosecution of the offense or to any person other
9 than the defendant, the defendant's attorney, or the person
10 specified in the order of a court of competent jurisdiction.

11 (b) Unless the disclosure is required or permitted by other
12 law, a public servant or other person commits an offense if the
13 person:

14 (1) has access to or obtains the name, address, or
15 phone number of a victim; and

16 (2) knowingly discloses the name, address, or
17 telephone number of the victim to any person who is not assisting in
18 the investigation or prosecution of the offense or to any person
19 other than the defendant, the defendant's attorney, or a person
20 specified in an order of a court of competent jurisdiction.

21 (c) It is an affirmative defense to prosecution under
22 Subsection (b) that the actor is:

23 (1) the victim; or

24 (2) the victim's parent, conservator, or guardian,
25 unless the victim's parent, conservator, or guardian allegedly
26 committed the offense described by Article 57E.01(4).

27 (d) An offense under this article is a Class C misdemeanor.

1 SECTION 2. Not later than October 1, 2019, the office of the
2 attorney general shall develop and distribute to all law
3 enforcement agencies of the state a pseudonym form to record the
4 name, address, telephone number, and pseudonym of a victim as
5 required by Article 57E.02, Code of Criminal Procedure, as added by
6 this Act.

7 SECTION 3. This Act takes effect September 1, 2019.