

1-1 By: Watson S.B. No. 944
1-2 (In the Senate - Filed February 21, 2019; March 1, 2019,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 April 8, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hancock	X		
1-10	Nichols	X		
1-11	Campbell	X		
1-12	Creighton	X		
1-13	Menéndez	X		
1-14	Paxton	X		
1-15	Schwertner	X		
1-16	Whitmire	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 944 By: Nichols

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the public information law.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Section 552.002, Government Code, is amended by
1-24 adding Subsection (d) to read as follows:
1-25 (d) "Protected health information" as defined by Section
1-26 181.006, Health and Safety Code, is not public information and is
1-27 not subject to disclosure under this chapter.
1-28 SECTION 2. Section 552.003, Government Code, is amended by
1-29 adding Subdivision (7) to read as follows:
1-30 (7) "Temporary custodian" means an officer or employee
1-31 of a governmental body who, in the transaction of official
1-32 business, creates or receives public information that the officer
1-33 or employee has not provided to the officer for public information
1-34 of the governmental body or the officer's agent. The term includes
1-35 a former officer or employee of a governmental body who created or
1-36 received public information in the officer's or employee's official
1-37 capacity that has not been provided to the officer for public
1-38 information of the governmental body or the officer's agent.
1-39 SECTION 3. Section 552.004, Government Code, is amended to
1-40 read as follows:
1-41 Sec. 552.004. PRESERVATION OF INFORMATION. (a) A
1-42 governmental body or, for information of an elective county office,
1-43 the elected county officer, may determine a time for which
1-44 information that is not currently in use will be preserved, subject
1-45 to Subsection (b) and to any applicable rule or law governing the
1-46 destruction and other disposition of state and local government
1-47 records or public information.
1-48 (b) A current or former officer or employee of a
1-49 governmental body who maintains public information on a privately
1-50 owned device shall:
1-51 (1) forward or transfer the public information to the
1-52 governmental body or a governmental body server to be preserved as
1-53 provided by Subsection (a); or
1-54 (2) preserve the public information in its original
1-55 form in a backup or archive and on the privately owned device for
1-56 the time described under Subsection (a).
1-57 (c) The provisions of Chapter 441 of this code and Title 6,
1-58 Local Government Code, governing the preservation, destruction, or
1-59 other disposition of records or public information apply to records
1-60 and public information held by a temporary custodian.

2-1 SECTION 4. Section 552.203, Government Code, is amended to
2-2 read as follows:

2-3 Sec. 552.203. GENERAL DUTIES OF OFFICER FOR PUBLIC
2-4 INFORMATION. Each officer for public information, subject to
2-5 penalties provided in this chapter, shall:

2-6 (1) make public information available for public
2-7 inspection and copying;

2-8 (2) carefully protect public information from
2-9 deterioration, alteration, mutilation, loss, or unlawful removal;
2-10 [~~and~~]

2-11 (3) repair, renovate, or rebind public information as
2-12 necessary to maintain it properly; and

2-13 (4) make reasonable efforts to obtain public
2-14 information from a temporary custodian if:

2-15 (A) the information has been requested from the
2-16 governmental body;

2-17 (B) the officer for public information is aware
2-18 of facts sufficient to warrant a reasonable belief that the
2-19 temporary custodian has possession, custody, or control of the
2-20 information;

2-21 (C) the officer for public information is unable
2-22 to comply with the duties imposed by this chapter without obtaining
2-23 the information from the temporary custodian; and

2-24 (D) the temporary custodian has not provided the
2-25 information to the officer for public information or the officer's
2-26 agent.

2-27 SECTION 5. Subchapter E, Chapter 552, Government Code, is
2-28 amended by adding Sections 552.233, 552.234, and 552.235 to read as
2-29 follows:

2-30 Sec. 552.233. OWNERSHIP OF PUBLIC INFORMATION. (a) A
2-31 current or former officer or employee of a governmental body does
2-32 not have, by virtue of the officer's or employee's position or
2-33 former position, a personal or property right to public information
2-34 the officer or employee created or received while acting in an
2-35 official capacity.

2-36 (b) A temporary custodian with possession, custody, or
2-37 control of public information shall surrender or return the
2-38 information to the governmental body not later than the 10th day
2-39 after the date the officer for public information of the
2-40 governmental body or the officer's agent requests the temporary
2-41 custodian to surrender or return the information.

2-42 (c) A temporary custodian's failure to surrender or return
2-43 public information as required by Subsection (b) is grounds for
2-44 disciplinary action by the governmental body that employs the
2-45 temporary custodian or any other applicable penalties provided by
2-46 this chapter or other law.

2-47 (d) For purposes of the application of Subchapter G to
2-48 information surrendered or returned to a governmental body by a
2-49 temporary custodian under Subsection (b), the governmental body is
2-50 considered to receive the request for that information on the date
2-51 the information is surrendered or returned to the governmental
2-52 body.

2-53 Sec. 552.234. METHOD OF MAKING WRITTEN REQUEST FOR PUBLIC
2-54 INFORMATION. (a) A person may make a written request for public
2-55 information under this chapter only by delivering the request by
2-56 one of the following methods to the applicable officer for public
2-57 information or a person designated by that officer:

2-58 (1) United States mail;

2-59 (2) electronic mail;

2-60 (3) hand delivery; or

2-61 (4) any other appropriate method approved by the
2-62 governmental body, including:

2-63 (A) facsimile transmission; and

2-64 (B) electronic submission through the
2-65 governmental body's Internet website.

2-66 (b) For the purpose of Subsection (a)(4), a governmental
2-67 body is considered to have approved a method described by that
2-68 subdivision only if the governmental body includes a statement that
2-69 a request for public information may be made by that method on:

3-1 (1) the sign required to be displayed by the
3-2 governmental body under Section 552.205; or

3-3 (2) the governmental body's Internet website.

3-4 (c) A governmental body may designate one mailing address
3-5 and one electronic mail address for receiving written requests for
3-6 public information. The governmental body shall provide the
3-7 designated mailing address and electronic mailing address to any
3-8 person on request.

3-9 (d) A governmental body that posts the mailing address and
3-10 electronic mail address designated by the governmental body under
3-11 Subsection (c) on the governmental body's Internet website or that
3-12 prints those addresses on the sign required to be displayed by the
3-13 governmental body under Section 552.205 is not required to respond
3-14 to a written request for public information unless the request is
3-15 received:

3-16 (1) at one of those addresses;

3-17 (2) by hand delivery; or

3-18 (3) by a method described by Subsection (a)(4) that
3-19 has been approved by the governmental body.

3-20 Sec. 552.235. PUBLIC INFORMATION REQUEST FORM. (a) The
3-21 attorney general shall create a public information request form
3-22 that provides a requestor the option of excluding from a request
3-23 information that the governmental body determines is:

3-24 (1) confidential; or

3-25 (2) subject to an exception to disclosure that the
3-26 governmental body would assert if the information were subject to
3-27 the request.

3-28 (b) A governmental body that allows requestors to use the
3-29 form described by Subsection (a) and maintains an Internet website
3-30 shall post the form on its website.

3-31 SECTION 6. Section 552.301(c), Government Code, is
3-32 repealed.

3-33 SECTION 7. The changes in law made by this Act apply only to
3-34 a request for public information received on or after the effective
3-35 date of this Act. A request for public information received before
3-36 the effective date of this Act is governed by the law in effect when
3-37 the request was received, and the former law is continued in effect
3-38 for that purpose.

3-39 SECTION 8. The attorney general shall create a public
3-40 information request form under Section 552.235(a), Government
3-41 Code, as added by this Act, not later than October 1, 2019.

3-42 SECTION 9. This Act takes effect September 1, 2019.

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