

1-1 By: Middleton, Eckhardt, Whitmire S.B. No. 435
1-2 (In the Senate - Filed January 12, 2023; February 15, 2023,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 18, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 18, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Flores	X		
1-11	Bettencourt	X		
1-12	Hinojosa	X		
1-13	Huffman	X		
1-14	King	X		
1-15	Miles	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 435 By: Hinojosa

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the disclosure under the public information law of
1-20 certain evidence of a crime that resulted in the death of a person.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 552.108, Government Code, is amended by
1-23 adding Subsections (d), (e), (f), (g), and (h) to read as follows:

1-24 (d) Notwithstanding other law, a prosecutor may permit a
1-25 person to view the following evidence of a qualifying crime that
1-26 occurred in the prosecutor's jurisdiction at least five years
1-27 before the date the person is allowed to view the information:

1-28 (1) a medical examiner's report, if the person viewing
1-29 the report is a family member of the person who is the subject of the
1-30 report and the person who is the subject of the report was a victim
1-31 of the crime; and

1-32 (2) video evidence of the crime, if the person viewing
1-33 the video is a victim of the crime or a family member of a victim of
1-34 the crime.

1-35 (e) A person permitted to view a medical examiner's report
1-36 or video evidence under Subsection (d) may not copy, duplicate,
1-37 photograph, record, capture, or otherwise memorialize the
1-38 information. A prosecutor may prohibit the person from having a
1-39 recording device, including a phone or camera, in the room when the
1-40 person views the information. The prosecutor shall advise the
1-41 person that the information is confidential and that discussing the
1-42 contents of the information with another person is prohibited and
1-43 could compromise the prosecution of the crime. The prosecutor may
1-44 require the person to sign a confidentiality agreement before
1-45 permitting the person to view the information.

1-46 (f) A permitted viewing of a medical examiner's report or
1-47 video evidence under Subsection (d) is not a voluntary disclosure
1-48 of information for purposes of Section 552.007(b). A governmental
1-49 body, by providing information under Subsection (d) that is
1-50 confidential or otherwise excepted from required disclosure under
1-51 law, does not waive or affect the confidentiality of the
1-52 information for purposes of state or federal law or waive the right
1-53 to assert exceptions to required disclosure of the information in
1-54 the future.

1-55 (g) Subsection (d) does not affect:

1-56 (1) the right of a person to obtain a medical
1-57 examiner's report or video evidence of a crime from a governmental
1-58 body under other law;

1-59 (2) the procedures under which the information is
1-60 obtained under other law; or

2-1 (3) the use that may be made of the information
2-2 obtained under other law.

2-3 (h) In this section:

2-4 (1) "Family member" means a person related to a victim
2-5 of a crime within the first degree of consanguinity or affinity.

2-6 (2) "Medical examiner's report" means a report and the
2-7 contents of such a report created by a medical examiner under
2-8 Article 49.25, Code of Criminal Procedure, including an autopsy
2-9 report and toxicology report.

2-10 (3) "Qualifying crime" means a crime:

2-11 (A) that resulted in the death of at least five
2-12 people; and

2-13 (B) for which the defendant or person who is the
2-14 alleged or suspected perpetrator of the crime is determined to be
2-15 incompetent to stand trial.

2-16 (4) "Victim" means an individual who suffered personal
2-17 injury or death as a result of criminal conduct.

2-18 SECTION 2. The change in law made by this Act applies to a
2-19 crime that occurred before, on, or after the effective date of this
2-20 Act.

2-21 SECTION 3. This Act takes effect immediately if it receives
2-22 a vote of two-thirds of all the members elected to each house, as
2-23 provided by Section 39, Article III, Texas Constitution. If this
2-24 Act does not receive the vote necessary for immediate effect, this
2-25 Act takes effect September 1, 2023.

2-26 * * * * *