



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 10, 2007

Ms. Ruth H. Soucy
Deputy General Counsel
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2007-05673

Dear Ms. Soucy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 278082.

The Comptroller of Public Accounts (the “comptroller”) received a request for the 2006 requests for payment and supporting documentation for litigated cases by the Texas Health and Human Services Commission, the Governor, and the Texas Attorney General (the “OAG”). The *comptroller released* some of the requested information. The comptroller states the OAG asserts some of the remaining information is confidential under section 231.108 of the Family Code. We have considered the OAG’s comments. *See Gov’t Code § 552.304 (interested party may submit written comments regarding availability of requested information).*

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by other statutes. *Id.* § 552.101. The OAG asserts that the information identifying parties to a Title IV-D case concerning child support arrearages is confidential under federal law and section 231.108(a) of the Family Code. The Social Security Act authorizes states to operate Title IV-D child support programs. *See* 42 U.S.C. § 651. In Texas, the OAG is designated as the state’s Title IV-D agency. *See* Fam. Code § 231.101. Under federal law, a state must have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including safeguards against the unauthorized use or disclosure of

information relating to actions to establish paternity, or to establish, modify, or enforce support, or to make or enforce a child custody determination. *See* 42 U.S.C. § 654(26). Section 231.108 of the Family Code provides as follows:

- (a) Except as provided by Subsection (c), all files and records of services provided under [chapter 231 of the Family Code], including information concerning a custodial parent, noncustodial parent, child, and an alleged or presumed father, are confidential.
- (b) Except as provided by Subsection (c), all communications made by a recipient of financial assistance under Chapter 31, Human Resources Code, or an applicant for or recipient of services under this chapter are privileged.
- (c) The Title IV-D agency may use or release information from the files and records, including information that results from a communication made by a recipient of financial assistance under Chapter 31, Human Resources Code, or by an applicant for or recipient of services under this chapter, for purposes directly connected with the administration of the child support, paternity determination, parent locator, or aid to families with dependent children programs. The Title IV-D agency may release information from the files and records to a consumer reporting agency in accordance with Section 231.114.
- (d) The Title IV-D agency by rule may provide for the release of information to public officials.

Fam. Code § 231.108; *see also* Open Records Decision No. 417 at 4 (1984) (records relating to recipients of child support collection services are confidential). In interpreting section 231.108, which governs the OAG's duty, as the Title IV-D agency, to keep certain information confidential, the OAG asserts the statute protects the identities of parties to a Title IV-D case, specifically, their names, the OAG case number, and the cause number. Furthermore, as the Title IV-D agency, the OAG shall convene an interagency work group that includes the comptroller to "identify methods to improve the exchange of data between the agencies represented in the work group" and "develop procedures to coordinate the child support efforts of each agency in the work group." *Id.* § 231.011.

The warrant information at issue contains information concerning a noncustodial parent in a child support case, which is a service provided under chapter 231 of the Family Code. Evidently, the OAG released the information to the comptroller in accordance with subsection (c) for purposes connected with the administration of the child support program. Because the comptroller obtained the information about the Title IV-D case from the OAG in accordance with section 231.108, we conclude the comptroller must withhold the noncustodial parent's identifying information that we marked under section 552.101 of the

Government Code in conjunction with section 231.108(a) of the Family Code. The comptroller must release the remainder.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

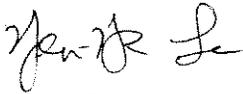
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 278082

Enc: Marked documents

c: Mr. Bruce P. Bower
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