



June 28, 2000

Ms. Katherine Minter Cary
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2000-2465

Dear Ms. Cary:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136122.

The Office of the Attorney General (the "OAG") received a request for a child support case file from a child support obligor, the non-custodial father. You have released some of the responsive documents to the requestor. You contend, however, that the remaining records are excepted from required public disclosure by section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted sample of information.¹

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information made confidential by statute. Chapter 231 of the Family Code pertains to the administration of Title IV-D child support programs. Chapter 231 provides that the office of the attorney general is designated as the state's Title IV-D agency. *See* Gov't Code § 231.101. The enabling section of Title IV-D provides:

For the purpose of enforcing the support obligations owed by noncustodial parents to their children and the spouse (or former spouse) with whom such children are living, locating noncustodial parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

eligible for assistance under a state program funded under part A of this subchapter) for whom such assistance is requested, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

42 U.S.C. § 651. Consequently, pursuant to the authority granted it under chapter 231 of the Family Code, Title IV-D applies to all child support cases administered by the OAG.

Section 231.108(a) of the Family Code provides:

(a) . . . all files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged or presumed father, are confidential.

Thus, section 231.108(a) establishes the confidentiality of child support case information. Section 231.108(c) of the Family Code establishes limited exceptions to that confidentiality:

(c) [t]he 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.

In this instance, the requestor seeks information contained in the files and records of services provided under chapter 231 of the Family Code. The exceptions described in section 231.108(c) do not apply. Therefore, we conclude that the submitted child support information is confidential under section 231.108 of the Family Code and must be withheld.

Pursuant to section 552.301(a) of the Government Code, you may rely on this ruling as a “previous determination” regarding Title IV-D child support program information. We are resolving this matter with an informal letter ruling rather than with a published open records decision. Accordingly, we need not further address the release of the requested documents. Further, the attorney general need not seek a decision from this office for future requests for information concerning Title IV-D services provided under chapter 231 of the Family Code. If you have questions about this ruling, please contact our office.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. 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/CHS/ljp

Ref: ID# 136122

Encl. Submitted documents

cc: Mr. Walter J. Riedel
121 Mae Drive
San Benito, Texas 78596
(w/o enclosures)