



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 21, 2006

Ms. Margo Kaiser  
Texas Workforce Commission  
101 E. 15<sup>th</sup> Street  
Austin, TX 78778

OR2006-01665

Dear Ms. Kaiser:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 242709.

The Texas Workforce Commission (the "commission") received a request for personnel information regarding a named commission employee. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that most of the submitted information is not responsive to the instant request. Information that is not responsive to this request, which we have marked, need not be released. Moreover, we do not address such information in this ruling.

Next, we note that the requestor represents the child support enforcement division of the State of Illinois Department of Healthcare and Family Services. Section 231.302 of the Family Code provides in part:

- (a) The Title IV-D agency of this or another state may request and obtain information relating to the identity, location, employment, compensation, benefits, income, and property holdings or other assets of any person from a state or local government agency, private company, institution, or other entity as necessary to establish, modify, or enforce a support order.

(b) A government agency, private company, institution, or other entity shall provide the information requested under Subsection (a) directly to the Title IV-D agency, without the requirement of payment of a fee for the information, and shall, subject to safeguards on privacy and information security, provide the information in the most efficient and expeditious manner available, including electronic or automated transfer and interface. Any individual or entity disclosing information under this section in response to a request from a Title IV-D agency may not be held liable in any civil action or proceeding to any person for the disclosure of information under this subsection.

Fam. Code § 231.302(a),(b). A Title IV-D agency is a state agency designated to provide child support services under Part D of Title IV of the federal Social Security Act. *See* 42 U.S.C. §§ 651 - 669b. In this instance, the requestor is under contract with the Title IV-D agency of the State of Illinois. *See id.* § 666(c)(1)(D) (requiring procedures that recognize and enforce the authority of Title IV agencies in other States to obtain access to information in records maintained in records of home State agencies); Fam. Code § 231.302(a), (b).

Upon review, we find that the requested personnel information is encompassed by section 231.302(a) as “information relating to the identity, location, employment, compensation, benefits, income, and property holdings or other assets” of the named employee. Fam. Code § 231.302(a). Further, the request letter indicates that the information at issue is being sought to establish, enforce, or modify a child support enforcement order. Consequently, we conclude that, pursuant to section 231.302(a) of the Family Code, the requestor has a right of access to the information at issue and, pursuant to section 231.302(b) of the Family Code, the commission is required to release this information to the requestor.<sup>1</sup>

You assert, however, the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. Section 552.101 excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses the doctrine of common law privacy. *See* Gov’t Code § 552.101. You argue common law privacy protects certain requested personal financial information regarding the named employee. *See* Open Records Decision No. 600 (1992) (public employee’s withholding allowance certificate, designation of beneficiary of employee’s retirement benefits, direct deposit authorization, and employee’s decisions regarding voluntary benefits programs, among others, are protected under common law privacy). *But see* Open Decision Nos. 545 (1990) (financial information pertaining to receipt

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<sup>1</sup>We note that Open Records Decision No. 448 (1986) determined that the City of El Paso was prohibited from releasing the address of a city employee to the child support bureau of another state pursuant to the statutory predecessor to section 552.117; however, that ruling was issued prior to the enactment of section 231.302 of the Family Code. *See* Act of April 20, 1995, 74th Leg., R.S., ch. 20, §1, 1995 Tex. Gen. Laws 113, 253 (enacting section 231.302).

of funds from governmental body or debts owed to governmental body not protected by common-law privacy), 523 (1989). You also argue that the employee's home address and home telephone number are excepted from disclosure under section 552.117 of the Government Code and may not be released as requested. *See* Gov't Code § 552.117(a)(1) (excepting from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code). Additionally, we note the requestor seeks insurance policy numbers that are excepted from disclosure under section 552.136 of the Government Code.<sup>2</sup> *See id.* § 552.136 (providing that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential").

However, because the requestor in this instance has a statutory right of access to the information at issue, the commission may not withhold this information from the requestor pursuant to section 552.101 in conjunction with common law privacy, or section 552.117 or section 552.136. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in the Act generally inapplicable to information that statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act.). Therefore, we conclude that the requestor has a right of access to the requested personnel information pursuant to section 231.302(a) of the Family Code, and that the commission must release this information to the requestor pursuant to section 231.302(b). Because some of the information being released would be excepted from disclosure to the general public, the commission must request another ruling from our office if it receives a future request for this information from a person other than this requestor.

In summary, the marked nonresponsive information need not be released. The requestor has a right of access to the requested personnel information pursuant to section 231.302(a) of the Family Code, and, pursuant to section 231.302(b) of the Family Code, the commission must release this information to the requestor.

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

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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); *Texas 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. 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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

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Ref: ID# 242709

Enc. Submitted documents

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