

(c) The commission shall provide the materials described by this section to each complainant and respondent.

(d) The commission shall adopt a policy to effectively distribute materials as required by this section.

Sec. 571.1351. STATUS OF COMPLAINT.

(a) The commission shall keep an information file about each sworn or other complaint filed with the commission. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the commission;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the commission closed the

file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) In addition to the notice required by Sections 571.123 through 571.132, the commission, at least quarterly until final disposition of a complaint, shall notify the person who filed the complaint and each person who is a subject of the complaint, if any, of the status of the sworn or other complaint.

Sec. 571.136. EXTENSION OF DEADLINE. The commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to a sworn complaint, motion, preliminary review hearing, or formal hearing.

Sec. 571.137. SUBPOENA.

(a) In connection with a formal hearing, the commission, as authorized by this chapter, may subpoena and examine witnesses and documents that directly relate to a sworn complaint.

(a-1) In connection with a preliminary review, the commission, for good cause and as authorized by this chapter, may subpoena documents and witnesses on application by the commission staff and a motion adopted by a vote of at least six members of the commission, for the purpose of attempting to obtain from the documents or witnesses specifically identified information, if the commission reasonably believes that the specifically identified information:

- (1) is likely to be determinative as to whether the subject of an investigation has violated a law within the jurisdiction of the commission;
- (2) can be determined from the documents or is known by the witnesses; and
- (3) is not reasonably available through a less intrusive means.

(a-2) The commission shall adopt procedures for the issuance of subpoenas under this section.

(a-3) A copy of a subpoena issued under this section must be delivered to the respondent.

(b) At the written request of at least six members of the commission, a peace officer shall serve a subpoena of the commission in the manner prescribed for service of a district court subpoena.

(c) If a person to whom a subpoena is directed refuses to appear, refuses to answer inquiries, or fails or refuses to produce books, records, or other documents that were under the

person's control when the demand was made, the commission shall report that fact to a district court in Travis County. The district court shall enforce the subpoena by attachment proceedings for contempt in the same manner as the court enforces a subpoena issued by the court.

(d) A respondent has the right to quash a subpoena as provided by law.

(e) A subpoenaed witness who attends a commission hearing is entitled to the same mileage and per diem payments as a witness who appears before a grand jury. A person who provides subpoenaed documents to the commission is entitled to reimbursement from the commission for the person's reasonable cost of producing the documents.

Sec. 571.138. STATUS OF COMPLAINANT. The complainant is not a party to a preliminary review, preliminary review hearing, or formal hearing under this subchapter.

Sec. 571.139. APPLICABILITY OF OTHER ACTS.

(a) Except as provided by Section 571.140(b), Chapter 552 does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion.

(b) Chapter 551 does not apply to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion, but does apply to a formal hearing held under Sections 571.129 through 571.131.

(c) Subchapters C through H, Chapter 2001, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final order of the commission, and only to the extent consistent with this chapter.

Sec. 571.140. CONFIDENTIALITY; OFFENSE.

(a) Except as provided by Subsection (b) or (b-1) or by Section 571.171, proceedings at a preliminary review hearing performed by the commission, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of a sworn complaint or motion are confidential and may not be disclosed unless entered into the record of a formal hearing or a judicial proceeding, except that a document or statement that was previously public information remains public information.

(b) An order issued by the commission after the completion of a preliminary review or hearing determining that a violation other than a technical or de minimis violation has occurred is not confidential.

(b-1) A commission employee may, for the purpose of investigating a sworn complaint or motion, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the sworn complaint if:

(1) the employee makes a good faith determination that the disclosure is necessary to conduct the investigation;

(2) the employee's determination under Subdivision (1) is objectively reasonable;

(3) the executive director authorizes the disclosure; and

(4) the employee discloses only the information necessary to conduct the investigation.

(c) A person commits an offense if the person discloses information made confidential by this section. An offense under this subsection is a Class C misdemeanor.

(d) In addition to other penalties, a person who discloses information made confidential by this section is civilly liable to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(e) The commission shall terminate the employment of a commission employee who violates Subsection (a).

(f) A commission employee who discloses confidential information in compliance with Subsection (b-1) is not subject to Subsections (c), (d), and (e).

Sec. 571.141. AVAILABILITY OF COMMISSION ORDERS ON INTERNET.

(a) As soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which the commission determines that a person has committed a violation within the commission's jurisdiction, the commission shall make available on the Internet:

- (1) a copy of the commission's order stating the determination; or
- (2) a summary of the commission's order.

(b) This section does not apply to a determination of a violation that is technical or de minimis.

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS.

(a) This section applies only to a sworn complaint if:

- (1) the complaint was filed after the 30th day before the date of an election;
- (2) the respondent is a candidate in the election; and
- (3) the complaint alleges a violation other than a technical or clerical violation.

(b) If, in disposing of a sworn complaint to which this section applies, the commission determines that a violation within the commission's jurisdiction has not occurred, the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint.

(c) This section does not apply to a sworn complaint regarding a reporting omission required by law.

SUBCHAPTER F. ENFORCEMENT

Sec. 571.171. INITIATION AND REFERRAL.

(a) On a motion adopted by an affirmative vote of at least six commission members, the commission may initiate civil enforcement actions and refer matters to the appropriate prosecuting attorney for criminal prosecution.

(b) On receipt of a sworn complaint, if the executive director reasonably believes that the person who is the subject of the complaint has violated Chapter 36 or 39, Penal Code, the executive director may refer the matter to the appropriate prosecuting attorney for criminal prosecution.

(c) In making a referral to a prosecuting attorney under this section, the commission or executive director may disclose confidential information.

Sec. 571.172. ORDER. The commission may:

- (1) issue and enforce a cease and desist order to stop a violation; and
- (2) issue an affirmative order to require compliance with the laws administered and enforced by the commission.

Sec. 571.173. CIVIL PENALTY FOR DELAY OR VIOLATION. The commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the commission, whichever amount is more, for a delay in

complying with a commission order or for a violation of a law administered and enforced by the commission.

Sec. 571.1731. WAIVER OR REDUCTION OF LATE FILING PENALTY.

(a) A person may request the waiver or reduction of a civil penalty under Section 305.033(b) or 572.033(b) of this code or Section 254.042(b), Election Code, by submitting an affidavit to the executive director that states the filer's reasons for requesting a waiver or reduction.

(b) The commission may waive or reduce a civil penalty if the commission finds that a waiver or reduction is in the public interest and in the interest of justice. The commission shall consider the following before acting to waive or reduce a civil penalty:

(1) the facts and circumstances supporting the person's request for a waiver or reduction;

(2) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation, and the amount of the penalty;

(3) any history of previous violations by the person;

(4) the demonstrated good faith of the person, including actions taken to rectify the consequences of the violation;

(5) the penalty necessary to deter future violations; and

(6) any other matter that justice may require.

(c) After hearing the waiver request, the commission may affirm, reduce, or waive the civil penalty.

Sec. 571.174. DENIAL, SUSPENSION, OR REVOCATION OF LOBBYIST REGISTRATION. After a criminal conviction for an offense under Chapter 36 of the Penal Code or under Chapter 305, the commission may deny, suspend, or revoke the registration of a person required to be registered under Chapter 305.

Sec. 571.175. NOTIFICATION OF REGULATORY OR SUPERVISORY ENTITY. The commission may notify the appropriate regulatory or supervisory entity, including any agency, the State Commission on Judicial Conduct, the senate, the house of representatives, or the State Bar of Texas, of a violation of a law administered and enforced by the commission.

Sec. 571.176. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH COMPLAINT.

(a) The commission may impose a civil penalty of not more than \$10,000 for the filing of a frivolous or bad-faith complaint. In this subsection, "frivolous complaint" means a complaint that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment.

(b) In addition to other penalties, a person who files a frivolous complaint is civilly liable to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(c) A person may file a sworn complaint with the commission, in accordance with Section 571.122, alleging that a complaint relating to that person filed with the commission is frivolous or brought in bad faith. A complaint may be filed under this subsection without regard to whether the complaint alleged to be frivolous or brought in bad faith is pending before the commission or has been resolved. The commission shall act on a complaint made under this subsection as provided by Subchapter E.

Sec. 571.177. FACTORS CONSIDERED FOR ASSESSMENT OF SANCTION.

The commission shall consider the following factors in assessing a sanction:

- (1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
- (2) the history and extent of previous violations;
- (3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;
- (4) the penalty necessary to deter future violations; and
- (5) any other matters that justice may require.