

BILL ANALYSIS

Senate Research Center

H.B. 678
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State Affairs
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Engrossed

DIGEST AND PURPOSE

It is foreseeable that transactions that now require a password or some other form of identification will utilize biometric technology in the future. Biometric technology is considered by some as the ultimate identifier. H.B. 678 prohibits a person or governmental body from selling, leasing, or otherwise disclosing a person's biometric identifier--defined as a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry--unless the individual consented to the disclosure, the disclosure completed a financial transaction requested by the person, the disclosure was required or permitted under another state or federal law, or the disclosure was made by or to a law enforcement agency for a law enforcement purpose. H.B. 678 also prohibits a person from capturing someone else's biometric identifier for a commercial purpose without that person's consent, and requires protective storage and transmission of that identifier to be equal to that of other confidential information.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 35D, Business & Commerce Code, by adding Section 35.50, as follows:

Sec. 35.50. BIOMETRIC IDENTIFIER. Defines "biometric identifier." Prohibits a person from capturing a biometric identifier of an individual for a commercial purpose unless the person informs the individual before capturing the biometric identifier, and receives the individual's consent to capture the biometric identifier. Provides that a person who possesses a biometric identifier of an individual is: prohibited from selling, leasing, or otherwise disclosing the biometric identifier to another person except under certain circumstances; and required to store, transmit, and protect from disclosure the biometric identifier using reasonable care and in a manner in which the person stores, transmits, and protects the person's other confidential information. Provides that a person who violates this section is subject to a civil penalty of not more than \$25,000 for each violation. Authorizes the attorney general to institute an action to recover the civil penalty.

SECTION 2. Amends Title 5A, Government Code, by adding Chapter 559, as follows:

CHAPTER 559. BIOMETRIC IDENTIFIER

Sec. 559.001. DEFINITIONS. Defines "biometric identifier" and "governmental body."

Sec. 559.002. DISCLOSURE OF BIOMETRIC IDENTIFIER. Provides that a governmental body that possesses a biometric identifier of an individual is: prohibited from selling, leasing, or otherwise disclosing the biometric identifier to another person except under certain circumstances; and required to store, transmit, and protect from disclosure the biometric

identifier using reasonable care and in a manner that is the same as or more protective than the manner in which the governmental body stores, transmits, and protects its other confidential information.

Sec. 559.003. APPLICATION OF CHAPTER 552. Provides that a biometric identifier in the possession of a governmental body is exempt from disclosure under Chapter 552.

SECTION 3. Effective date: September 1, 2001.