

BILL ANALYSIS

Senate Research Center
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S.B. 398
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Transportation
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Our government is supposed to be a limited government with limited powers. A limited government respects individual liberty and does not unreasonably intrude into an individual's privacy. Yet, in January 2014, the Texas Department of Public Safety made an administrative decision to begin collecting all 10 fingerprints as part of the application for a driver's license or license renewal. For the first time, Texans who are not suspected of a crime are required to submit their full fingerprints to the government. Prior to this change, DPS had only taken an applicant's thumbprints, or if thumbprints were unavailable, an applicant's index fingerprints.

DPS argues that this change is necessary to prevent driver's license fraud and protect against identity theft and other criminal threats. DPS has stated that "the only reliable way to establish a person's identity is to collect all 10 fingerprints." However, according to leading scholars on the issue, the odds of two individual fingerprints being identical is one in 64 billion. The collection of all 10 fingerprints is unnecessary for reliably identifying a person, is not critical to the prevention of driver's license fraud, and, therefore, is not beneficial to preventing identify fraud.

DPS has stated that its authority to collect all 10 fingerprints comes from Section 521.059, Transportation Code, which directs DPS to establish an image verification system based on, among other things, "an applicant's thumbprints or fingerprints." This statute was enacted by H.B. 2337, 79th Legislature, Regular Session, 2005, and the bill analysis suggests no intention by the legislature to expand DPS's fingerprint collection.

Further, Section 521.142, Transportation Code, which specifies the requirements to apply for a driver's license calls only for collection of "the thumbprints of the applicant or, if thumbprints cannot be taken, the index fingerprints of the applicant." Quite simply, this is government overreach; DPS is expanding its powers without legislative authority and intruding into the personal privacy of Texans.

S.B. 398 would amend Section 521.059, Transportation Code, to conform to Section 521.142, Transportation Code. This legislation would clarify that DPS only has the authority to collect an applicant's thumbprints or, if thumbprints cannot be taken, the applicant's index fingerprints.

As proposed, S.B. 398 amends current law relating to fingerprints collected by the Texas Department of Public Safety from an applicant for a driver's license or personal identification certificate and used for the department's image verification system.

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 Section 521.059(a), Transportation Code, as follows:

- (a) Requires the Department of Public Safety of the State of Texas (DPS) to establish an image verification system based on the following identifiers collected by DPS under

Section 521.142(b) (relating to the information required in an application for an original license):

(1) an applicant's facial image; and

(2) an applicant's thumbprints or, if thumbprints cannot be taken, the index fingerprints of the applicant.

SECTION 2. Effective date: September 1, 2015.