

BILL ANALYSIS

Senate Research Center
81R30472 JE-D

H.B. 3186
By: McCall (Duncan)
Business & Commerce
5/20/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Biometric identifiers, including fingerprints, voiceprints, retina or iris scans, and records of hand or face geometry, are increasingly used by businesses and governmental entities to confirm the identity of an individual. However, a record of a biometric identifier can also be misused by identity thieves to impersonate the owner of the identifier in business transactions or other contexts. There are concerns that biometric data, like all personally identifying information, is increasingly becoming a target of identity theft and needs to be safeguarded to protect individual privacy and prevent economic harm to both individuals and businesses. The bill will help ensure that biometric identifiers can continue to be used as a tool by law enforcement and businesses to confirm the identity of an individual accurately.

This bill narrows the circumstances in which a biometric identifier is authorized to be disclosed by a person in possession of an identifier and requires a biometric identifier to be destroyed within one year of the date the purpose for collecting the identifier expires.

H.B. 3186 amends current law relating to the collection and use of biometric identifiers.

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 503.001, Business & Commerce Code, by amending Subsection (c) and adding Subsections (c-1) and (c-2), as follows:

(c) Provides that a person who possesses a biometric identifier of an individual that is captured for a commercial purpose is prohibited from selling, leasing, or otherwise disclosing the biometric identifier to another person unless certain provisions are met, including that the individual consents to the disclosure for identification purposes in the event of the individual's disappearance or death, or the disclosure is made by or to a law enforcement agency for a law enforcement purpose in response to a warrant; and is required to destroy the biometric identifier within a reasonable time, but not later than the first anniversary of the date the purpose for collecting the identifier expires, except as provided by Subsection (c-1). Makes a nonsubstantive change.

(c-1) Requires the person who possesses the biometric identifier, if a biometric identifier of an individual is used in connection with an instrument or document that is required by another law to be maintained for a period longer than the period prescribed by Subsection (c)(3) (relating to the required destruction of a biometric identifier under certain circumstances), to destroy the biometric identifier within a reasonable time, but not later than the first anniversary of the date the instrument or document is no longer required to be maintained by law.

(c-2) Provides that if a biometric identifier has been collected for security purposes by an employer, the purpose for collecting the identifier under Subsection (c)(3) is presumed to expire on termination of the employment relationship.

SECTION 2. (a) Provides that the changes in law made by this Act apply to a biometric identifier possessed by a person on or after the effective date of this Act; or before the effective date of this Act, subject to Subsection (b) of this section.

(b) Requires a person who before the effective date of this Act possesses a biometric identifier that is required to be destroyed because of the changes in law made by this Act to destroy the biometric identifier on or before October 1, 2009.

SECTION 3. Effective date: September 1, 2009.