

By: Kleinschmidt

H.B. No. 1051

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the collection and use of fingerprints of an applicant  
3 for a driver's license, personal identification certificate, or  
4 commercial driver's license.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 411.088(a), Government Code, is amended  
7 to read as follows:

8 (a) Except as provided by Section 521.0491(e),  
9 Transportation Code, the [~~The~~] department may charge a person that  
10 is not primarily a criminal justice agency a fee for processing  
11 inquiries for criminal history record information. The department  
12 may charge:

13 (1) a fee of \$10 for each inquiry for criminal history  
14 record information on a person that is processed only on the basis  
15 of the person's name, unless the inquiry is submitted  
16 electronically or by magnetic media, in which event the fee is \$1;

17 (2) a fee of \$15 for each inquiry for criminal history  
18 record information on a person that is processed on the basis of a  
19 fingerprint comparison search; and

20 (3) except as provided by Subsection (b), actual costs  
21 for processing all other information inquiries.

22 SECTION 2. Subchapter C, Chapter 521, Transportation Code,  
23 is amended by adding Section 521.0491 to read as follows:

24 Sec. 521.0491. FINGERPRINT INFORMATION SUPPLIED TO CERTAIN

1 GOVERNMENTAL ENTITIES. (a) In this section:

2 (1) "State agency" means a department, commission,  
3 board, office, council, authority, or other agency in the  
4 executive, legislative, or judicial branch of state government that  
5 is created by the constitution or a statute of this state, including  
6 a university system or institution of higher education, as defined  
7 by Section 61.003, Education Code.

8 (2) "Written consent" includes consent given by an  
9 electronic signature.

10 (b) The department shall retain fingerprints provided to  
11 the department by an applicant under Section 521.142(b) or by an  
12 applicant for a personal identification certificate or commercial  
13 driver's license.

14 (c) With the written consent of the applicant who provided  
15 the fingerprints and on request, the department shall:

16 (1) provide or make available the applicant's  
17 fingerprints to a state agency for use by the agency in carrying out  
18 its functions; and

19 (2) use the applicant's fingerprints in another  
20 application under this subtitle submitted by the applicant.

21 (d) A state agency may use fingerprints provided or made  
22 available to the agency under this section to obtain criminal  
23 history record information to which the agency is entitled under  
24 Subchapter F, Chapter 411, Government Code.

25 (e) Notwithstanding any other law, the department may not  
26 charge a fee for:

27 (1) providing, using, or making available the

1 applicant's fingerprints under Subsection (c); or  
2 (2) processing an inquiry from a state agency for  
3 criminal history record information on the basis of fingerprints  
4 provided or made available under Subsection (c).

5 (f) Section 503.001, Business & Commerce Code, does not  
6 apply to the maintenance or provision of fingerprints under this  
7 section.

8 SECTION 3. Section 521.052, Transportation Code, is amended  
9 to read as follows:

10 Sec. 521.052. DISCLOSURE OF INDIVIDUAL INFORMATION  
11 PROHIBITED. Except as provided by Sections 521.045, 521.046,  
12 521.0475, 521.0491, 521.049(c), and 521.050, and by Chapter 730,  
13 the department may not disclose information from the department's  
14 files that relates to personal information, as that term is defined  
15 by Section 730.003.

16 SECTION 4. Section 521.142(b), Transportation Code, is  
17 amended to read as follows:

18 (b) The application must include:

19 (1) the complete set of fingerprints [~~the thumbprints~~]  
20 of the applicant [~~or, if thumbprints cannot be taken, the index~~  
21 ~~fingerprints of the applicant~~];

22 (2) a photograph of the applicant;

23 (3) the signature of the applicant; and

24 (4) a brief description of the applicant.

25 SECTION 5. Section 730.010, Transportation Code, is amended  
26 to read as follows:

27 Sec. 730.010. DISCLOSURE OF THUMB OR FINGER IMAGES

1 PROHIBITED. Notwithstanding any other provision of this chapter,  
2 if an agency obtains an image of an individual's thumb or finger in  
3 connection with the issuance of a license, permit, or certificate  
4 to the individual, the agency may:

5 (1) use the image only:

6 (A) in connection with the issuance of the  
7 license, permit, or certificate; ~~or~~

8 (B) to verify the identity of an individual as  
9 provided by Section 521.059;

10 (C) as authorized under Section 521.0491; or

11 (D) for criminal justice purposes; and

12 (2) disclose the image only if disclosure is expressly  
13 authorized by law.

14 SECTION 6. The changes in law made by this Act apply only to  
15 an application for a driver's license, personal identification  
16 certificate, or commercial driver's license that is submitted on or  
17 after January 1, 2012. An application submitted before January 1,  
18 2012, is governed by the law as it existed immediately before the  
19 effective date of this Act, and that law is continued in effect for  
20 that purpose.

21 SECTION 7. This Act takes effect September 1, 2011.