

## **BILL ANALYSIS**

C.S.H.B. 3492  
By: Elkins  
Government Transparency & Operation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that situations arise in which individuals seeking to file documents with or request services from certain county or district clerks provide fraudulent information to the clerk. C.S.H.B. 3492 seeks to combat such fraud by authorizing such clerks in certain counties to copy or record identifying information regarding an individual who seeks to so file or request.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3492 amends the Local Government Code to authorize a county or district clerk in a county with a population of 3.3 million or more to copy or record identifying information, including a document on which the information is viewable but excluding biometric information, regarding an individual who presents a document or other instrument for filing or recording to the county or district clerk or who requests or obtains an ex officio service or other public service provided by the county or district clerk. The bill defines "public service" among other terms as a service related to an official government power, duty, program, or activity, excluding an incidental service provided only as a courtesy to a member of the public.

C.S.H.B. 3492 authorizes a county or district clerk to maintain identifying information copied or recorded under the bill's provisions in an electronic storage format and prohibits a county or district clerk from charging a fee to copy or record identifying information and from refusing to file or record a document or other instrument or refusing to provide a public service on the ground that an individual who so presents a document or other instrument for filing or recording or who so requests or obtains an ex officio service or other public service does not have or refuses to provide identifying information. The bill makes identifying information copied or recorded confidential except for use in a criminal investigation or prosecution or a related civil court proceeding.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

85R 25179

17.111.505

Substitute Document Number: 85R 23669

While C.S.H.B. 3492 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 191, Local Government Code, is amended by adding Section 191.011 to read as follows:

Sec. 191.011. AUTHORITY OF CLERKS TO OBTAIN AND RETAIN IDENTIFYING INFORMATION IN CERTAIN COUNTIES. (a) In this section:

(1) "Electronic storage" has the meaning assigned by Section 205.001.

(2) "Ex officio service" has the meaning assigned by Section 118.023.

(3) "Identifying information" means information in any form that may be used to identify an individual, including

information derived from:

(A) a driver's license, personal identification card, or other document, regardless of the intended use of the document;

(B) a photograph;

(C) a recording of the individual's image or voice, including a video or audio recording;  
or

(D) any other physical or electronic source.

(b) A county clerk or district clerk in a county with a population of 3.3 million or more may copy or record identifying information, including a document on which the information is viewable, regarding an individual who:

(1) presents a document or other instrument for filing or recording to the county clerk or district clerk; or

(2) requests or obtains an ex officio service or other public service provided by the county clerk or district clerk.

(c) A county clerk or district clerk may maintain identifying information copied or recorded under this section in an electronic

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 191, Local Government Code, is amended by adding Section 191.011 to read as follows:

Sec. 191.011. AUTHORITY OF CLERKS TO OBTAIN AND RETAIN IDENTIFYING INFORMATION IN CERTAIN COUNTIES. (a) In this section:

(1) "Biometric information" means a retina or iris scan, digital or electronic fingerprint scan, voiceprint, or record of hand or face geometry.

(2) "Electronic storage" has the meaning assigned by Section 205.001.

(3) "Ex officio service" has the meaning assigned by Section 118.023.

(4) "Identifying information" means information in any form, other than biometric information, that may be used to identify an individual. The term includes information derived from:

(A) a driver's license, personal identification card, or other document, regardless of the intended use of the document;

(B) a photograph;

(C) a recording of the individual's image or voice, including a video or audio recording;  
or

(D) any other physical or electronic source.

(5) "Public service" means a service related to an official governmental power, duty, program, or activity. The term does not include an incidental service provided only as a courtesy to a member of the public.

(b) A county clerk or district clerk in a county with a population of 3.3 million or more may copy or record identifying information, including a document on which the information is viewable, regarding an individual who:

(1) presents a document or other instrument for filing or recording to the county clerk or district clerk; or

(2) requests or obtains an ex officio service or other public service provided by the county clerk or district clerk.

(c) A county clerk or district clerk may maintain identifying information copied or recorded under this section in an electronic

storage format.

(d) A county clerk or district clerk may not

charge a fee to copy or record identifying information.

(e) Identifying information copied or recorded under this section is confidential except for use in a criminal investigation or prosecution or a civil court proceeding.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

storage format.

(d) Except as otherwise required or authorized by law, a county clerk or district clerk may not:

(1) refuse to file or record a document or other instrument or refuse to provide a public service on the ground that an individual described by Subsection (b) does not have or refuses to provide identifying information; or

(2) charge a fee to copy or record identifying information.

(e) Identifying information copied or recorded under this section is confidential except for use in a criminal investigation or prosecution or a related civil court proceeding.

SECTION 2. Same as introduced version.