

By: Meyer

H.B. No. 3491

Substitute the following for H.B. No. 3491:

By: Elkins

C.S.H.B. No. 3491

A BILL TO BE ENTITLED

AN ACT

relating to limitations on the use of a biometric identifier by a governmental body.

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

SECTION 1. Section 560.001(1), Government Code, is amended to read as follows:

(1) "Biometric identifier" means any measurement of the human body or its movement that is used to attempt to uniquely identify or authenticate the identity of a person, including a blood sample, hair sample, skin sample, DNA sample, body scan, retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.

SECTION 2. Chapter 560, Government Code, is amended by adding Section 560.0015 to read as follows:

Sec. 560.0015. STATUTORY AUTHORITY REQUIRED. A governmental body may not capture or possess a biometric identifier of an individual or require a biometric identifier as a prerequisite for providing a governmental service to the individual unless the governmental body:

(1) has specific, explicit statutory authority that:

(A) allows the governmental body to:

(i) capture or possess the individual's biometric identifier; or

(ii) require a biometric identifier as a

1 prerequisite for providing a governmental service to the  
2 individual; or

3 (B) allows the governmental body to require and  
4 obtain the written consent of the individual or the individual's  
5 legal guardian before:

6 (i) capturing or possessing the  
7 individual's biometric identifier; or

8 (ii) requiring a biometric identifier as a  
9 prerequisite for providing a governmental service to the  
10 individual;

11 (2) obtains the voluntary, written consent of the  
12 individual or the individual's legal guardian;

13 (3) is a health care provider or health care facility  
14 that captures, possesses, or requires the biometric identifier  
15 while providing health care services to the individual; or

16 (4) is a criminal justice agency, as defined by  
17 Article 60.01, Code of Criminal Procedure, that captures,  
18 possesses, or requires the biometric identifier while engaged in  
19 the administration of criminal justice, as defined by that article.

20 SECTION 3. Section 560.0015, Government Code, as added by  
21 this Act, applies only to a biometric identifier captured or  
22 requested on or after the effective date of this Act. A biometric  
23 identifier captured or requested before that date is governed by  
24 the law in effect immediately before the effective date of this Act,  
25 and that law is continued in effect for that purpose.

26 SECTION 4. This Act takes effect September 1, 2017.