

By: Elkins

H.B. No. 3492

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain county and district clerks to obtain and retain information that identifies a person filing a document or requesting services.

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

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;

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

3 (D) any other physical or electronic source.

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

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

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

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

16 (c) A county clerk or district clerk may maintain
17 identifying information copied or recorded under this section in an
18 electronic storage format.

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

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

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

27 (e) Identifying information copied or recorded under this

1 section is confidential except for use in a criminal investigation
2 or prosecution or a related civil court proceeding.

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