

BILL ANALYSIS

C.S.H.B. 71
By: Canales
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to the Department of Public Safety (DPS), a digital driver's license solution has the potential to offer greater convenience and security to Texans while providing a platform to deliver new value-added services. C.S.H.B. 71 provides for the establishment of a program for the issuance of digital identification, which would include digital driver's licenses, personal identification certificates, handgun licenses, and hunting and fishing licenses. Under the program, DPS would use the current infrastructure and add additional upgrades to the program with an authentication and verification process for a wireless communication device that can be used in any location, regardless of the level of wireless connectivity or cellular service.

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 rulemaking authority is expressly granted to the Department of Public Safety in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 71 amends the Transportation Code to require the Department of Public Safety (DPS), by rule and in consultation with the Parks and Wildlife Department (TPWD), to establish a program for the issuance of digital identification. The program must be established not later than February 1, 2025. For this purpose, digital identification includes a digital driver's license, a digital personal identification certificate, a digital handgun license, and a digital hunting or fishing license. The bill defines "handgun license" as a license to carry a handgun and defines "hunting or fishing license" as a noncommercial hunting or fishing license of any type issued by TPWD.

C.S.H.B. 71 requires DPS, in establishing the program, to assess existing DPS infrastructure and upgrade that infrastructure according to its findings, provide a digital identification solution, deploy that solution, and implement any procedures necessary to allow law enforcement officials to accept digital identification. The bill requires the digital identification solution to satisfy the following criteria:

- be capable of presenting digital identification on a wireless communication device that must include the general information required to be included on a driver's license and may include the following, as applicable:
 - the information included on a handgun license; and
 - the information included on a hunting or fishing license, including a stamp or other authorization issued by TPWD in connection with the license;

- include an authentication and verification process for a wireless communication device; and
- have the capability of being used in any location regardless of the location's level of wireless connectivity or cellular telephone service.

The bill authorizes DPS to contract with a third party to establish the program if the contract is at no cost to DPS and further authorizes DPS to charge a fee for the issuance of digital identification to offset its costs in establishing and implementing the program. The bill prohibits digital identification issued under the program from being used for voting purposes.

C.S.H.B. 71 provides for the delayed implementation of any provision for which DPS determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 71 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute expands the definition of "digital identification" as set out in the introduced, which included only a digital driver's license or digital personal identification certificate, to include also a digital handgun license and a digital hunting or fishing license. Accordingly, the substitute includes definitions of "handgun license" and "hunting or fishing license" not in the introduced.

The substitute requires DPS to establish the digital identification program in consultation with TPWD, whereas the introduced did not require such consultation. The substitute changes the deadline for DPS to adopt the rules establishing the program from February 1, 2024, as in the introduced, to February 1, 2025. The substitute includes a provision that was not in the introduced providing for the delayed implementation of the bill's provisions if a federal waiver or authorization is needed.

The substitute replaces the requirement from the introduced for DPS, in establishing the program, to acquire a mobile application that displays digital identification with a requirement for DPS to provide a digital identification solution that is capable of presenting digital identification on a wireless communication device. Reflecting the expansion in scope of what constitutes digital identification for purposes of the program, the substitute authorizes the digital identification solution to include, as applicable, the information included on a handgun license and on a hunting or fishing license, which is in addition to the requirement present in both versions for the general information on a driver's license to be included. The substitute replaces the requirement from the introduced for DPS to implement a law enforcement version of the application with a requirement for DPS to implement any procedures necessary to allow law enforcement officials to accept digital identification.

The substitute includes an authorization for DPS to charge a fee for the issuance of digital identification to offset program costs and a prohibition against digital identification issued under the program being used for voting purposes, neither of which appeared in the introduced.