

BILL ANALYSIS

S.B. 821
By: Nichols
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 87th Texas Legislature enacted S.B. 15, the Texas Consumer Privacy Act Phase 1, which dealt with the disclosure of certain consumer information by The Texas Department of Transportation, the Texas Department of Motor Vehicles, and the Parks and Wildlife Department. Through the work done to craft that legislation, Senator Nichols and Representative Keith Bell realized that numerous state agencies sell data to businesses and data collection agencies. Texans give their information to state agencies because the state law requires them to, and as such the state should ensure the information is protected. It is not appropriate for an agency to turn around and sell that data--especially without consent. S.B. 821 seeks to leverage the sunset review process in identifying and prohibiting such sales of personal information unless there is a compelling state interest.

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

S.B. 821 amends the Government Code to require the Sunset Advisory Commission to determine, as part of its review of a state agency, whether the agency sells personal data the agency possesses. In addition, the bill requires the commission to determine the following if the agency does sell personal data:

- to whom the personal data is sold;
- to the extent possible, the purpose for which the personal data is sold;
- the amount the agency receives for the sale of the personal data; and
- the law that authorizes the state agency to sell the personal data.

The bill defines "personal data" for these purposes as any information relating to an identified or identifiable individual that directly or indirectly identifies the individual by reference to any of the following:

- an identifier for the individual, including a name, an identification number, location information, or an online identifier; or
- one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of the individual.

S.B. 821 requires the commission to recommend prohibiting the sale of personal data by a state agency unless the commission identifies a compelling state or public interest justifying the agency's authority to sell the personal data. If the commission recommends continuing a state

agency's authority to sell personal data, the commission must make any recommendations it considers necessary to protect the personal data from improper use and dissemination.

EFFECTIVE DATE

September 1, 2023.