

## BILL ANALYSIS

Senate Research Center  
88R8355 JCG-D

S.B. 1551  
By: West  
Criminal Justice  
3/14/2023  
As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law provides a remedy to a person who, without their knowledge or permission, has had their name given to law enforcement by another person in order for that person to avoid arrest. Under current law, the person whose identity has been falsely or wrongfully used by another person can contact the appropriate law enforcement agency to confirm that any charges alleging an offense pending against them due to the misuse of their identity was, in fact, not committed by them.

When this process is complete, the information that clears the complainant of the charges incurred through the fraudulent use of their name can be submitted by a law enforcement agency, to the county or district attorney to present to the court on the person's behalf and those charges and records related to the offense can be expunged. These provisions have been in place since the passage of S.B. 566 in 2003.

However problems still arise, because a person whose name has been falsely used by another person and given to law enforcement, has no way of knowing that their identifying information has been fraudulently used by someone else. If that person is stopped by law enforcement, they may be subject to arrest. These charges may also appear – unbeknownst to the subject – when a criminal history search is performed by a prospective employer, a licensing agency, or a prospective landlord screening tenants for housing.

The goal of S.B. 1551 is to prevent a person from using the name of another person to avoid detention or arrest. It would also help prevent the victimization of the person whose identity has been fraudulently used.

Under this proposal, a person who is stopped by law enforcement and cannot or does not present their driver's license to an officer, would be required to provide – in addition to a name – other identifying information upon the request of an officer. The information requested is identifying information that appears on the driver's license. It includes the driver's name, address, date of birth and the driver's license number, in addition to their photograph. The driver will not be required to provide all of the information that is captured by the driver's license.

Law enforcement, including patrol officers and deputy sheriffs, can access the driver license information, including the photograph of the licensed driver, on their in-car computers. If the photograph retrieved does not match or resemble the person who has been detained, the officer has reason to pursue the true identity of the person detained, including arrest.

S.B. 1551 is consistent with existing law that requires a person to identify himself when requested to do so by an officer, providing a Class C misdemeanor under Texas Penal Code Section 38.02.

It is a Class B misdemeanor violation of current Texas Penal Code Section 38.02(b) to provide fraudulent identifying information to law enforcement.

A person does not commit an offense under S.B. 1551 if the address given by a driver does not match the information that appears on a driver's license.

As proposed, S.B. 1551 amends current law relating to the prosecution of the criminal offense of failure to identify and creates a criminal offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 38.02, Penal Code, by adding Subsections (b-1), (b-2), (d-1), and (f) and amending Subsection (c), as follows:

(b-1) Provides that a person commits an offense if the person:

- (1) is an operator of a motor vehicle, as defined by Section 32.34 (Fraudulent Transfer of a Motor Vehicle), who is lawfully detained by a peace officer for an alleged violation of a law;
- (2) fails to provide or display the person's driver's license on the officer's request for the license; and
- (3) intentionally refuses to give the person's name, driver's license number, residence address, or date of birth to the peace officer on the officer's request for that information.

(b-2) Provides that giving a peace officer a residence address that is different from the address associated with the person's driver's license, for the purposes of Subsection (b-1)(3), does not constitute a refusal to give the person's residence address in violation of that provision if that address given to the officer is the person's actual residence address.

(c) Provides that an offense under Section 38.02 (Failure to Identify), except as provided by Subsections (d) (relating to increasing an offense if the defendant was a fugitive from justice at the time of the offense) and (d-1), rather than under Subsections (d) and (e) (relating to providing that if conduct that constitutes an offense under this section also constitutes an offense under Section 106.07 (Misrepresentation of Age by a Minor), Alcoholic Beverage Code, the actor may be prosecuted only under Section 106.07, Alcoholic Beverage Code), is:

- (1) a class C misdemeanor if the offense is committed under Subsection (a) (relating to providing that a person commits an offense if the person refuses to give certain personal information to a peace officer) or (b-1); or
- (2) makes no changes to this subdivision.

(d-1) Provides that an offense under Subsection (b-1) is a Class B misdemeanor if it is shown on the trial of the offense that the actor gave a false or fictitious name to the peace officer during the commission of the offense.

(f) Authorizes the actor, subject to Subsection (e), if the conduct that constitutes an offense under Subsection (b-1) also constitutes an offense under any other law, to be prosecuted under that subsection, the other law, or both.

SECTION 2. Effective date: September 1, 2023.