

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 1413

By: Brogdon of the Senate

and

Duncan of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to public safety; creating the
11 Oklahoma Identity Protection Act; amending 47 O.S.
12 2001, Section 6-110.2, as last amended by Section 15,
13 Chapter 311, O.S.L. 2006 and Section 1, Chapter 159,
14 O.S.L. 2007 (47 O.S. Supp. 2007, Sections 6-110.2 and
15 6-110.3), which relate to computerized finger imaging
16 and biometric data; making submission of finger
17 imaging optional; prohibiting submission of finger
18 images of certain persons unless authorized;
19 requiring certain form be signed prior to submitting
20 finger image; prohibiting access by state or federal
21 agencies to certain images without court order;
22 requiring the Department of Public Safety to retrieve
23 and secure certain information; prohibiting certain
24 departments and agencies from collecting, obtaining
or retaining computerized facial images in connection
with the issuance or renewal of driver licenses that
exceed certain resolution; requiring agency to
attempt to recollect and secure certain images;
requiring state agencies to withdraw certain
membership; prohibiting state agencies from
reestablishing certain membership; prohibiting state
agencies from establishing certain membership;
directing the Department of Public Safety to retrieve
and secure certain information; providing for
creation of certain rules and reciprocity agreements
within certain time; authorizing the Department to
enter into agreements to share certain information
with agencies of other states, subject to certain

1 conditions; prohibiting the Department from
2 disclosing certain information without a court order;
3 authorizing certain agreements regarding the
4 acceptance of nonresident driver licenses or
5 identification documents; prohibiting the
6 implementation of rules or reciprocity agreements
7 unless approved by the Legislature; providing an
8 exemption for commercial driver licenses; directing
9 the Department of Public Safety to maintain a certain
10 computer database; providing for promulgation of
11 rules; providing for noncodification; providing for
12 codification; and declaring an emergency.

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law not to be
11 codified in the Oklahoma Statutes reads as follows:

12 This act shall be known and may be cited as the "Oklahoma
13 Identity Protection Act".

14 SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-110.2, as
15 last amended by Section 15, Chapter 311, O.S.L. 2006 (47 O.S. Supp.
16 2007, Section 6-110.2), is amended to read as follows:

17 Section 6-110.2 A. The Department of Public Safety shall
18 implement a procedure for computerized finger imaging by means of an
19 inkless finger image scanning device ~~and shall require~~ which will
20 allow every applicant for an original, renewal or replacement driver
21 license or identification card who so desires to submit to finger
22 imaging for the purposes of proof of identity and to ensure the
23 security of the driver license or identification card issued to the
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1 applicant. Nothing in this section shall be construed to compel any
2 applicant to submit finger imaging.

3 B. No unemancipated person under eighteen (18) years of age
4 shall ~~be issued a driver license or identification card by the~~
5 ~~Department unless~~ submit to finger imaging unless the legal
6 custodial parent or legal guardian of the person signs an
7 authorization form, prescribed and furnished by the Department,
8 authorizing the finger imaging of the person and ~~signed by the legal~~
9 ~~custodial parent or legal guardian of the person, is in the~~
10 ~~possession of the Department.~~

11 C. Before an applicant may provide a finger image, the
12 applicant shall sign a consent form, furnished by the Department,
13 which provides that the applicant is voluntarily submitting to
14 finger imaging for the purpose of receiving an original, renewal or
15 replacement driver license or identification card. The consent form
16 shall state that the Department of Public Safety will retain the
17 finger image and shall not release the finger image to any agency of
18 the state or federal government without a court order.

19 D. No law enforcement agency of the state or federal government
20 other than the Department of Public Safety shall have access to any
21 information collected through the use of computerized finger
22 imaging, or to computerized images obtained pursuant to Section 6-
23 111 of this title, without first obtaining a court order from a
24 judge of competent jurisdiction. Each application for an order

1 authorizing the access to any information collected through the use
2 of computerized finger imaging, or to computerized images obtained
3 pursuant to Section 6-111 of this title, shall be made in writing
4 upon oath or affirmation to a judge of competent jurisdiction. Each
5 application shall establish probable cause for belief that a named
6 individual is committing, has committed or is about to commit a
7 particular violation of law. Any computerized finger imaging
8 information or computerized image obtained pursuant to Section 6-111
9 of this title which has been shared with any person or entity,
10 public or private, for any purpose other than compliance with a
11 court order pursuant to this subsection shall be retrieved and
12 secured by the Department.

13 ~~D.~~ E. The Commissioner of Public Safety shall adopt rules as
14 may be necessary to carry out the provisions of this section.

15 SECTION 3. AMENDATORY Section 1, Chapter 159, O.S.L.
16 2007 (47 O.S. Supp. 2007, Section 6-110.3), is amended to read as
17 follows:

18 Section 6-110.3 A. 1. The Legislature finds that the
19 enactment into law by the United States Congress of the federal REAL
20 ID Act of 2005, Public Law Number 109-13, is inimical to the
21 security and well-being of the people of Oklahoma, will cause
22 approximately Eight Million Dollars (\$8,000,000.00) in added expense
23 and inconvenience to our state, and was adopted by the United States
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1 Congress in violation of the principles of federalism contained in
2 the Tenth Amendment to the United States Constitution.

3 2. The State of Oklahoma shall not participate in the
4 implementation of the REAL ID Act of 2005. The Department of Public
5 Safety is hereby directed not to implement the provisions of the
6 REAL ID Act of 2005 and to report to the Governor and the
7 Legislature any attempt by agencies or agents of the United States
8 Department of Homeland Security to secure the implementation of the
9 REAL ID Act of 2005 through the operations of that or any other
10 state department.

11 B. No department or agency of the state charged with motor
12 vehicle registration or operation, the issuance or renewal of driver
13 licenses, or the issuance or renewal of any identification cards
14 shall collect, obtain, or retain any data in connection with
15 activities related to complying with the REAL ID Act of 2005.

16 C. Any biometric data previously collected, obtained, or
17 retained in connection with motor vehicle registration or operation,
18 the issuance or renewal of driver licenses, or the issuance or
19 renewal of any identification cards by any department or agency of
20 this state charged with those activities shall be retrieved and
21 permanently deleted from any and all databases. ~~The provisions of~~
22 ~~this subsection shall not apply to any data collected, obtained or~~
23 ~~retained for a purpose other than complying with the REAL ID Act of~~
24 ~~2005.~~

1 D. No department or agency of the state charged with motor
2 vehicle registration or operation, the issuance or renewal of driver
3 licenses, or the issuance or renewal of any identification cards
4 shall collect, obtain, or retain any computerized facial image of an
5 individual in connection with the issuance or renewal of driver
6 licenses that exceeds an uncompressed photographic resolution where
7 the width of the head is 48 pixels or more of resolution, which
8 corresponds to a maximum full image width of 84 pixels and an image
9 of 105 pixels. The agency shall make every attempt to recollect any
10 images of higher resolution that have been shared with any person or
11 entity, public or private, for any purpose other than compliance
12 with a court order and any image, so retrieved, shall be secured by
13 the department or agency which originally obtained the image. The
14 image shall then be subject to the conditions contained within this
15 subsection.

16 E. For purposes of this section, "biometric data" includes, but
17 is not limited to:

18 1. Facial feature pattern characteristics;

19 2. Voice data used for comparing live speech with a previously
20 created speech model of a person's voice;

21 3. Iris recognition data containing color or texture patterns
22 or codes;

23 4. Retinal scans, reading through the pupil to measure blood
24 vessels lining the retina;

- 1 5. Behavior characteristics of a handwritten signature, such as
- 2 shape, speed, pressure, pen angle, or sequence;
- 3 6. Fingerprints, palm prints, and other methods for measuring
- 4 or recording ridge pattern or fingertip characteristics;
- 5 7. Keystroke dynamics, measuring pressure applied to key pads;
- 6 8. Hand geometry, measuring hand characteristics, including the
- 7 shape and length of fingers, in three (3) dimensions; and
- 8 9. Deoxyribonucleic acid (DNA) and/or ribonucleic acid (RNA).

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6-110.4 of Title 47, unless
11 there is created a duplication in numbering, reads as follows:

12 A. Any agency or department of the state, or a political
13 subdivision thereof, which, as of the effective date of this act,
14 holds a membership with any organization that establishes national
15 or international standards for the design, issuance, or renewal of
16 driver licenses or identification cards, or the collection, storage,
17 or exchange of information associated with such documents, is hereby
18 directed to withdraw such membership within eighteen (18) months of
19 the effective date of this act and is prohibited from reestablishing
20 such membership at any future time. Any agency or department of the
21 state, or a political subdivision thereof, shall not engage in any
22 additional agreement or compact with such an organization after the
23 effective date of this act. Any agency or department of the state,
24 or a political subdivision thereof, which, as of the effective date

1 of this act, does not hold such a membership, is prohibited from
2 establishing such a membership at any future time.

3 B. Any information regarding the design, issuance, renewal,
4 collection, storage, or exchange of information associated with
5 driver licenses or identification cards of this state, which has
6 been provided by a department, agency or a political subdivision of
7 this state, to any organization that establishes national or
8 international standards for the design, issuance, renewal,
9 collection, storage, or exchange of information associated with
10 driver licenses or identification cards, shall be retrieved and
11 secured by the Department of Public Safety.

12 C. Upon the effective date of this act, the Department of
13 Public Safety shall have sixteen (16) months to create rules and
14 reciprocity agreements and enter into those agreements with other
15 states regarding the design, issuance, or renewal of driver licenses
16 or identification cards in this state or the collection, storage, or
17 exchange of information associated with such documents with
18 departments and agencies of other states. Such agreements shall not
19 disclose any additional information beyond what is currently
20 authorized by compact or agreement in effect on January 1, 2008.

21 D. Beginning one (1) month from the effective date of this act,
22 the Department of Public Safety shall not disclose any finger image
23 or biometric information without a court order from a court of
24 proper jurisdiction. This section shall not be construed as

1 preventing the Department of Public Safety from entering into
2 agreements with departments and agencies of other states, the
3 federal government, or the governments of foreign countries
4 regarding the acceptance of state-issued driver licenses or
5 identification documents as provided in Section 6-102 of Title 47 of
6 the Oklahoma Statutes.

7 E. The Department of Public Safety shall be prohibited from
8 implementing any rules or reciprocity agreements unless prior
9 approval has been obtained from the State Legislature.

10 F. The provisions of this section shall not apply to commercial
11 driver licenses or any information relating to the driving records
12 of a person who possesses a commercial driver license.

13 G. The Department of Public Safety shall maintain a separate
14 computer database system for the purpose of collecting and
15 maintaining records relating to the issuance and renewal of
16 commercial driver licenses. The Department shall promulgate rules
17 to implement the provisions of this subsection.

18 SECTION 5. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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