

1 ENGROSSED HOUSE
2 BILL NO. 3226

By: Key, Reynolds and Tibbs of
the House

3 and

4 Brogdon of the Senate
5
6

7 An Act relating to public safety; amending 47 O.S.
8 2001, Section 6-110.2, as last amended by Section 15,
9 Chapter 311, O.S.L. 2006 and Section 1, Chapter 159,
10 O.S.L. 2007 (47 O.S. Supp. 2007, Sections 6-110.2 and
11 6-110.3), which relate to computerized finger imaging
12 and biometric data; prohibiting access by state or
13 federal agencies to certain images without court
14 order; requiring the Department of Public Safety to
15 retrieve and secure certain information; prohibiting
16 certain departments and agencies from collecting,
17 obtaining or retaining computerized facial images in
18 connection with the issuance or renewal of driver
19 licenses that exceed certain resolution; requiring
20 agency to attempt to recollect and secure certain
21 images; requiring state agencies to withdraw certain
22 membership; prohibiting state agencies from
23 reestablishing certain membership; prohibiting state
24 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
conditions; prohibiting the Department from
disclosing certain information without a court order;
authorizing certain agreements regarding the
acceptance of nonresident driver licenses or
identification documents; and providing for
codification.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 6-110.2, as
2 last amended by Section 15, Chapter 311, O.S.L. 2006 (47 O.S. Supp.
3 2007, Section 6-110.2), is amended to read as follows:

4 Section 6-110.2 A. The Department of Public Safety shall
5 implement a procedure for computerized finger imaging by means of an
6 inkless finger image scanning device and shall require every
7 applicant for an original, renewal or replacement driver license or
8 identification card to submit to finger imaging for the purposes of
9 proof of identity and to ensure the security of the driver license
10 or identification card issued to the applicant.

11 B. No unemancipated person under eighteen (18) years of age
12 shall be issued a driver license or identification card by the
13 Department unless an authorization form, prescribed and furnished by
14 the Department, authorizing the finger imaging of the person and
15 signed by the legal custodial parent or legal guardian of the
16 person, is in the possession of the Department.

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

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

11 D. The Commissioner of Public Safety shall adopt rules as may
12 be necessary to carry out the provisions of this section.

13 SECTION 2. AMENDATORY Section 1, Chapter 159, O.S.L.
14 2007 (47 O.S. Supp. 2007, Section 6-110.3), is amended to read as
15 follows:

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

24

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

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

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

23 D. No department or agency of the state charged with motor
24 vehicle registration or operation, the issuance or renewal of driver

1 licenses, or the issuance or renewal of any identification cards
2 shall collect, obtain, or retain any computerized facial image of an
3 individual in connection with the issuance or renewal of driver
4 licenses that exceeds an uncompressed photographic resolution where
5 the width of the head is 48 pixels or more of resolution, which
6 corresponds to a maximum full image width of 84 pixels and an image
7 of 105 pixels, and that the agency shall make every attempt to
8 recollect any images of higher resolution that have been shared with
9 any person or entity, public or private, for any purpose other than
10 compliance with a court order and that any image, so retrieved,
11 shall be secured by the department or agency which originally
12 obtained the image and the image shall then be subjected to the
13 conditions contained within this subsection.

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

16 1. Facial feature pattern characteristics;

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

19 3. Iris recognition data containing color or texture patterns
20 or codes;

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

23 5. Behavior characteristics of a handwritten signature, such as
24 shape, speed, pressure, pen angle, or sequence;

1 6. Fingerprints, palm prints, and other methods for measuring
2 or recording ridge pattern or fingertip characteristics;

3 7. Keystroke dynamics, measuring pressure applied to key pads;

4 8. Hand geometry, measuring hand characteristics, including the
5 shape and length of fingers, in three (3) dimensions; and

6 9. Deoxyribonucleic acid (DNA) and/or ribonucleic acid (RNA).

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6-110.4 of Title 47, unless
9 there is created a duplication in numbering, reads as follows:

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

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

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

22 D. Beginning one (1) month from the effective date of this act
23 the Department of Public Safety shall not disclose any photograph,
24 finger image or biometric information without a court order from a

