

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 15, 2008

**Committee Substitute for  
ENGROSSED  
Senate Bill No. 1413**

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1413 - By:  
BROGDON of the Senate and DUNCAN of the House.

An Act relating to public safety; creating the Oklahoma Identity Protection Act; amending 47 O.S. 2001, Section 6-110.2, as last amended by Section 15, Chapter 311, O.S.L. 2006 and Section 1, Chapter 159, O.S.L. 2007 (47 O.S. Supp. 2007, Sections 6-110.2 and 6-110.3), which relate to computerized finger imaging and biometric data; making submission of finger imaging optional; prohibiting submission of finger images of certain persons unless authorized; requiring certain form be signed prior to submitting finger image; prohibiting access by state or federal agencies to certain images without court order; requiring the Department of Public Safety to retrieve and secure certain information; prohibiting certain 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 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; prohibiting the implementation of rules or reciprocity agreements unless approved by the Legislature; providing an exemption for commercial driver licenses; directing the Department of Public Safety to maintain a certain computer database; providing for promulgation of

rules; providing for noncodification; providing for codification; and declaring an emergency.

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

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

3 This act shall be known and may be cited as the “Oklahoma Identity Protection  
4 Act”.

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

8 Section 6-110.2 A. The Department of Public Safety shall implement a procedure  
9 for computerized finger imaging by means of an inkless finger image scanning device ~~and~~  
10 ~~shall require~~ which will allow every applicant for an original, renewal or replacement  
11 driver license or identification card who so desires to submit to finger imaging for the  
12 purposes of proof of identity and to ensure the security of the driver license or  
13 identification card issued to the applicant. Nothing in this section shall be construed to  
14 compel any applicant to submit finger imaging.

15 B. No unemancipated person under eighteen (18) years of age shall ~~be issued a~~  
16 ~~driver license or identification card by the Department unless~~ submit to finger imaging  
17 unless the legal custodial parent or legal guardian of the person signs an authorization

1 form, prescribed and furnished by the Department, authorizing the finger imaging of the  
2 person ~~and signed by the legal custodial parent or legal guardian of the person, is in the~~  
3 ~~possession of the Department.~~

4 C. Before an applicant may provide a finger image, the applicant shall sign a  
5 consent form, furnished by the Department, which provides that the applicant is  
6 voluntarily submitting to finger imaging for the purpose of receiving an original, renewal  
7 or replacement driver license or identification card. The consent form shall state that the  
8 Department of Public Safety will retain the finger image and shall not release the finger  
9 image to any agency of the state or federal government without a court order.

10 D. No law enforcement agency of the state or federal government other than the  
11 Department of Public Safety shall have access to any information collected through the  
12 use of computerized finger imaging, or to computerized images obtained pursuant to  
13 Section 6-111 of this title, without first obtaining a court order from a judge of competent  
14 jurisdiction. Each application for an order authorizing the access to any information  
15 collected through the use of computerized finger imaging, or to computerized images  
16 obtained pursuant to Section 6-111 of this title, shall be made in writing upon oath or  
17 affirmation to a judge of competent jurisdiction. Each application shall establish  
18 probable cause for belief that a named individual is committing, has committed or is  
19 about to commit a particular violation of law. Any computerized finger imaging  
20 information or computerized image obtained pursuant to Section 6-111 of this title which  
21 has been shared with any person or entity, public or private, for any purpose other than

1 compliance with a court order pursuant to this subsection shall be retrieved and secured  
2 by the Department.

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

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

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

13 2. The State of Oklahoma shall not participate in the implementation of the REAL  
14 ID Act of 2005. The Department of Public Safety is hereby directed not to implement the  
15 provisions of the REAL ID Act of 2005 and to report to the Governor and the Legislature  
16 any attempt by agencies or agents of the United States Department of Homeland  
17 Security to secure the implementation of the REAL ID Act of 2005 through the  
18 operations of that or any other state department.

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

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

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

18 E. For purposes of this section, “biometric data” includes, but is not limited to:

- 19 1. Facial feature pattern characteristics;
- 20 2. Voice data used for comparing live speech with a previously created speech  
21 model of a person’s voice;
- 22 3. Iris recognition data containing color or texture patterns or codes;

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

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

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

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

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

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

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

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

1 department of the state, or a political subdivision thereof, which, as of the effective date  
2 of this act, does not hold such a membership, is prohibited from establishing such a  
3 membership at any future time.

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

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

18 D. Beginning one (1) month from the effective date of this act, the Department of  
19 Public Safety shall not disclose any finger image or biometric information without a court  
20 order from a court of proper jurisdiction. This section shall not be construed as  
21 preventing the Department of Public Safety from entering into agreements with  
22 departments and agencies of other states, the federal government, or the governments of

1 foreign countries regarding the acceptance of state-issued driver licenses or identification  
2 documents as provided in Section 6-102 of Title 47 of the Oklahoma Statutes.

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

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

9 G. The Department of Public Safety shall maintain a separate computer database  
10 system for the purpose of collecting and maintaining records relating to the issuance and  
11 renewal of commercial driver licenses. The Department shall promulgate rules to  
12 implement the provisions of this subsection.

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

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,  
17 dated 04-14-08 - DO PASS, As Amended.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.