

# SENATE BILL REPORT

## HB 2213

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As of Second Reading

**Title:** An act relating to state agency collection, use, and retention of biometric identifiers.

**Brief Description:** Concerning state agency collection, use, and retention of biometric identifiers.

**Sponsors:** Representatives Smith, Haler and Morris.

**Brief History:** Passed House: 5/25/17, 94-0.

**Committee Activity:**

### Brief Summary of Bill

- Adds deoxyribonucleic acid (DNA) to the definition of "biometric identifier."
- Subjects general authority law enforcement agencies to restrictions on state agency use, sharing, review, and retention of biometric identifiers.
- Authorizes certain agencies to obtain biometric identifiers without notice and consent under certain circumstances.

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**Staff:** Samuel Brown (786-7470)

**Background:** Biometrics. The terms biometric data, biometric information, or biometric identifier variously refer to measurable biological or behavioral characteristics unique to an individual. Biometrics may be used for identification and authentication purposes, such as unlocking a device or authorizing a payment, and to gather personal characteristics for customizing services or information, such as in advertising.

During the 2017 regular session, the Legislature passed SHB 1717, which defines a biometric identifier as any information, regardless of how it is captured, converted, stored, or shared, based on an individual's retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Certain information is excluded from this definition, including information derived from the following:

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- written samples, photographs, or physical descriptions such as height or eye color;
- donated organ parts, blood, or serum;
- information captured in a health care setting; or
- images or film used to diagnose or treat a medical condition or validate a scientific screening, such as X-rays.

Agency Responsibilities Regarding Biometric Identifiers. SHB 1717 also regulates state agency collection, use, and retention of biometric identifiers as follows:

- an agency is prohibited from obtaining a biometric identifier without notice and consent, and from selling the identifier;
- agency use, sharing, review, and retention of biometric identifiers is restricted;
- security policies, privacy policies, and retention schedules that address biometric identifiers are required; and
- biometric identifiers are exempted from disclosure under the Public Records Act.

SHB 1717 was signed by the Governor and takes effect on July 23, 2017. General authority law enforcement agencies are excluded from the definition of "agency" subject to the provisions of the bill.

**Summary of Bill:** Changes are made to the provisions regulating state agency collection, use, and retention of biometric identifiers.

Definition of Biometric Identifiers. DNA is added to the definition of "biometric identifier."

Agencies Covered by the Act. General authority law enforcement agencies are added as agencies subject to the restrictions on use, sharing, review, and retention of biometric identifiers, but may obtain a biometric identifier without notice and consent.

Agency Responsibilities. When acting under legal authorization, an agency may obtain a biometric identifier without notice and consent and restrictions on use, sharing, and retention of biometric identifiers do not apply.

The following agencies may obtain fingerprints or DNA without notice and consent, and seek a waiver from the requirement where there is need to obtain other types of biometric identifiers:

- limited authority law enforcement agencies;
- agencies with authorization for involuntary confinement; and
- the Attorney General's Office, when engaging in specified functions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 23, 2017.