



## *House of Representatives*

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**STANDING COMMITTEES:**  
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Date: April 18, 2018  
To: Governor Nathan Deal  
From: Rep Deborah Gonzalez (HD117)  
Re: Opposition to SB336 (Secret Subpoenas and Fingerprints to FBI)

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Honorable Nathan Deal:

I respectfully submit this memo in opposition to, and to request your veto of, SB336 (Secret Subpoenas and Authorization to allow GBI to give fingerprint data of innocent Georgians to FBI).

During the session I have made a number of pleas to my colleague representatives regarding my concern over the privacy and security of high-risk biometric data outlined in this bill. To this end this bill was successfully defeated (as HB623) not once but twice on crossover in the House. Thinking that was the end of it, I was surprised to see it return as a zombie bill added as part of an amendment to SB336. I then submitted the following memo to my colleagues regarding my opposition.

### #3 Reasons to **Vote NO** on **SB336**:

1. **Secret subpoenas** have been declared **unconstitutional** by courts all over the US – including in lawsuits won by Facebook (who is considering opening a branch in Georgia).
2. This bill would make the **Georgia Legislature responsible** for granting the authority to a state agency to give high-risk **biometric data of innocent Georgians** to a federal agency, **knowingly disregarding security concerns and best practices** considering the testimony given in committee regarding “that we cannot know what the FBI will do with it.” The buck stops with us.
3. This is **not a partisan issue**. The defeat was bipartisan because **we all want to protect Georgians**. The broadness of this bill sets up a **dangerous policy of disregard for Georgians’ privacy and identity** in our online world.

We need to take a step back instead of rushing to push this through. For more details see below.

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I submit to you this memo to address some concerns I have on SB336 that may be coming to our desk to vote on today or in the upcoming days before session ends.

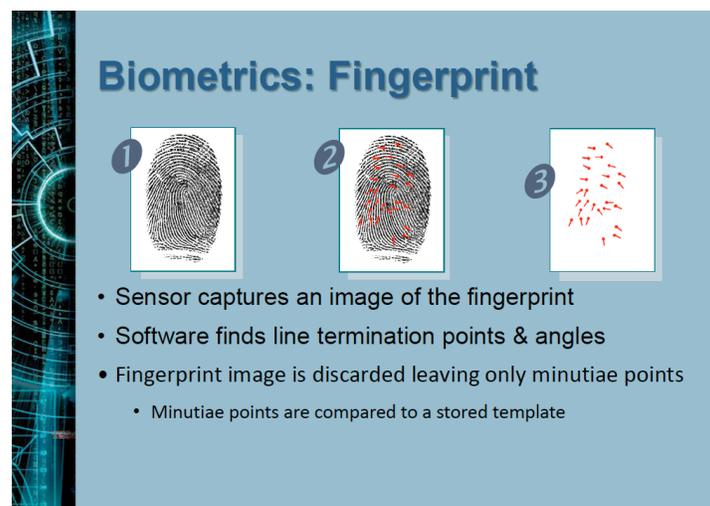
1. The language from defeated HB623 was added to SB336 - a completely unrelated bill.
  - a. SB336, authored by Senator Renee Unterman of the 45<sup>th</sup> District, deals with requiring Internet Service Providers to NOT let some of their clients know their data had been subpoenaed by the Georgia Bureau of Investigation in certain situations.

- b. In sub-committee hearing Senator Unterman testified that the impetus for her putting forth this bill was to protect children from trafficking. But, the bill does not specify the criminal investigations in which these secret subpoenas would be used. So it could be used for a number of “investigations.”
  - c. It should also be noted that this bill would make secret subpoenas the rule rather than the exception in Georgia. This goes against recent trends of the use of secret subpoenas by the FBI, under the guise of National Security Letters, which is actually on a downward trend, from a high of 56,507 in 2004 to 12,150 in 2017<sup>1</sup>, mainly due to legal challenges from Internet Service Providers (including Facebook and Google).
2. HB623, authored by Rep. Andrew Welch of the 110<sup>th</sup> District, authorizes not only the collection and storage of biometric data (for the first time and contrary to security best practices), but also the “giving” of these data to the FBI without necessary restrictions. We defeated this bill on cross over day. It was a bipartisan defeat as members from both parties realized the magnitude and gravity of giving such high-risk data to the FBI wholesale without making provisions for the protection of innocent Georgians who could potentially be treated as criminals.
    - a. The new substitute of SB336 has some changes to the original HB623 language including limiting the number of agencies this would affect down to 4 and specifying that the data would be kept separately from criminal data.
    - b. We received recent testimony by one of the members of the Judiciary Non-Civil committee who commented, “this bill changes nothing. We send the fingerprints to the FBI now and we have no idea what they do with it”. This raises a serious concern.
    - c. It is one thing if an entity does something wrong without authority, it is another if they do it *with* authority. With the passing of this bill we, the House of Representatives, are granting authority for this high-risk data to be given to an entity that we have no idea what they will do with it.

Do WE really want to be accountable for authorizing the giving of biometric data of Georgians to the FBI for them to do whatever they want with it? Isn't the legislature supposed to protect Georgians?

The image below shows standard best practice of how biometric data is collected and stored securely. These programs only keep the images #3, not #1. You can plainly see that you cannot use image #3 to access a phone, car, home or other device, but you could with image #1.

We have the right before authorizing the transfer of this data to inquire and receive sufficient assurances that the “secure system” the GBI and the FBI are using fall within the standard best practices of security professionals worldwide.



ISSA = Information Systems Security Association

<http://www.issa.org>

<sup>1</sup> Whittaker, Zack, ZDNet, As challenges mount, FBI issues fewer secret subpoenas, <http://zd.net/2DmEFse>, May 2, 2017.



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As you can see my concerns focus on the security of Georgians. In a day and age where technology makes it all too easy to have personal data collected for malicious usage, we should not be too quite to give authorization as a state body to give such data out of the state without having sufficient security measures in place.

I appreciate you taking the time to read my request. I am available at your convenience for further discussion.

Thank you.

Warmest regards,

*Rep Deborah Gonzalez*

Rep. Deborah Gonzalez  
HD117