



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB3105

Introduced 2/2/2024, by Sen. Steve Stadelman

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Prohibiting Coercive Subcutaneous Implants Act. Prohibits a person or entity from requiring, coercing, or compelling any other individual to undergo the subcutaneous implant of an identification device. Prohibits an employer from inquiring during an interview if a prospective employee will consent to having a subcutaneous identification device implanted in his or her body. Requires an employer to provide reasonable accommodations for an employee who does not consent to having a device implanted in his or her body. Requires an employer to remove the device from the employee's body within 30 days of separation from employment if the employee so requests. Prohibits an employer from discriminating or taking any retaliatory action against any employee because the employee, in good faith, does or threatens to do any of the following with respect to his or her rights under this Act: (i) file a claim or complaint; (ii) initiate any inquiry, investigation, proceeding, or other action; or (iii) testify or provide information to any person in connection to their rights afforded by this Act. Makes conditions for the employer to follow for voluntary implantation. Creates a private cause of action for any person who is subject to a violation of this Act with liquidated damages of \$10,000 or actual damages, whichever is greater; reasonable attorney's fees and costs, punitive damages, and other relief as a State or federal court deems appropriate. Effective January 1, 2025.

LRB103 37571 JRC 67697 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Prohibiting Coercive Subcutaneous Implants Act.

6 Section 5. Definitions. In this Act:

7 "Employee" means a person who is employed by an employer,  
8 or who contracts to perform certain work away from an  
9 employer's premises, uses his or her own methods to accomplish  
10 the work, and is subject to the control of the employer only as  
11 to the results of performed work.

12 "Employer" means a person who employs any number of  
13 employees within this State.

14 "Identification device" means any item, application, or  
15 product that is passively or actively capable of transmitting  
16 personal information, including, but not limited to, devices  
17 using radio frequency technology.

18 "Person" means an individual, business association,  
19 partnership, limited partnership, corporation, limited  
20 liability company, trust, estate, cooperative association, or  
21 other entity.

22 "Personal information" includes any of the following data  
23 elements to the extent they are used alone or in conjunction

1 with any other information used to identify an individual:

2 (1) first or last name;

3 (2) address;

4 (3) telephone number;

5 (4) e-mail, Internet Protocol, or website address;

6 (5) date of birth;

7 (6) driver's license number or government-issued  
8 identification card number;

9 (7) any unique personal identifier number contained or  
10 encoded on a driver's license or government-issued  
11 identification card;

12 (8) bank, credit card, or other financial institution  
13 account number;

14 (9) any unique personal identifier contained or  
15 encoded on a health insurance, health benefit, or benefit  
16 card or record issued in conjunction with any  
17 government-supported aid program;

18 (10) religion;

19 (11) ethnicity or nationality;

20 (12) photograph;

21 (13) fingerprint or other biometric identifier;

22 (14) social security number; or

23 (15) any unique personal identifier.

24 "Require, coerce, or compel" means physical violence,  
25 threat, intimidation, retaliation, the conditioning of any  
26 private or public benefit or care on consent to implantation,

1 including employment, promotion, or other employment benefit,  
2 or by any means that causes a reasonable person of ordinary  
3 susceptibilities to acquiesce to implantation when he or she  
4 otherwise would not.

5 "Subcutaneous" means existing, performed, or introduced  
6 under or on the skin.

7 Section 10. Prohibition on coercive subcutaneous implants.  
8 Except as provided in Section 35, a person shall not require,  
9 coerce, or compel any other individual to undergo the  
10 subcutaneous implanting of an identification device.

11 Section 15. Employment-specific prohibitions and duties.

12 (a) Job interviews An employer shall not inquire during an  
13 interview if a prospective employee will consent to having a  
14 subcutaneous identification device implanted in his or her  
15 body.

16 (b) Reasonable accommodations An employer shall provide  
17 reasonable accommodations for an employee who does not consent  
18 to having a subcutaneous identification device implanted in  
19 his or her body.

20 (c) Implant removal upon separation from employment If an  
21 employee is separated from employment, the subcutaneous  
22 identification device shall be removed from the employee's  
23 body within 30 days of separation from employment. However, an  
24 employee may elect to retain a subcutaneous identification

1 device after separation from employment. If an employee elects  
2 to retain a subcutaneous identification device after  
3 separation from employment, the employee assumes  
4 responsibility for all costs associated with the microchip,  
5 and subsection (d) shall not apply.

6 (d) Conditions for voluntary implantation. If an employee  
7 receives a subcutaneous identification devices at the request  
8 of the employer, the employer shall do all of the following:

9 (1) Pay all the costs associated with implanting and  
10 removing the subcutaneous identification device.

11 (2) Pay all the medical costs incurred by the employee  
12 as a result of any bodily injury to the employee caused by  
13 the subcutaneous implantation of the identification device  
14 or the presence of the device in the employee's body.

15 (3) Disclose to the employee the data that will be  
16 maintained on the subcutaneous identification device and  
17 how the data that is maintained on the device will be used  
18 by the employer.

19 Section 20. Civil liability. Any person who violates  
20 Section 10 may be assessed an initial civil penalty of no more  
21 than \$10,000, and no more than \$1,000 for each day the  
22 violation continues until the deficiency is corrected. That  
23 civil penalty may be assessed and recovered in a civil action  
24 brought in any court of competent jurisdiction. The court may  
25 also grant a prevailing plaintiff reasonable attorney's fees

1 and litigation costs, including, but not limited to, expert  
2 witness fees and expenses as part of the costs.

3 Section 25. Right of action. Any party directly aggrieved  
4 by a violation of this Act shall have a right of action in a  
5 State circuit court or as a supplemental claim in federal  
6 district court against an offending party. A prevailing party  
7 may recover for each violation:

8 (1) against a person that intentionally or recklessly  
9 violates a provision of this Act, liquidated damages of  
10 \$10,000 or actual damages, whichever is greater;

11 (2) reasonable attorney's fees and costs, including  
12 expert witness fees and other litigation expenses;

13 (3) other relief, including an injunction, as the  
14 State or federal court may deem appropriate; and

15 (4) punitive damages upon proof of the defendant's  
16 malice, oppression, fraud, or duress in requiring,  
17 coercing, or compelling the plaintiff to undergo the  
18 subcutaneous implanting of an identification device.

19 Section 30. Statute of limitations. With the exception of  
20 Section 30, an action brought pursuant to this Act shall be  
21 commenced within 5 years of the date upon which the  
22 identification device was implanted.

23 Section 35. Minor and dependent adult victims. If the

1 victim was a dependent adult or minor when the implantation  
2 occurred, actions brought pursuant to this Act shall be  
3 commenced within 3 years after the date the plaintiff, or his  
4 or her guardian or parent, discovered or reasonably should  
5 have discovered the implant, or within 8 years after the  
6 plaintiff attains the age of majority, whichever date occurs  
7 later.

8 Section 40. Affirmation of parental rights. This Act shall  
9 not in any way modify existing statutory or case law regarding  
10 the rights of parents or guardians, the rights of children or  
11 minors, or the rights of dependent adults.

12 Section 45. Retaliation. No person shall discriminate or  
13 take any retaliatory action against any employee because the  
14 employee, in good faith, does or threatens to do any of the  
15 following with respect to his or her rights under this Act:

- 16 (1) file a claim or complaint;  
17 (2) initiate any inquiry, investigation, proceeding,  
18 or other action; or  
19 (3) testify or provide information to any person in  
20 connection to his or her rights afforded by this Act.

21 Section 99. Effective date. This Act takes effect January  
22 1, 2025.