99TH GENERAL ASSEMBLY
State of Illinois
2015 and 2016

SB2409

Introduced 2/3/2016, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

740 ILCS 14/15

Amends the Biometric Information Privacy Act. Provides that for the purposes of crime prevention and law enforcement a private detective, private detective agency, private security contractor, or private security contractor agency may collect or capture a scan of a person's face geometry without satisfying specified notice requirements in order to compare the scan to a database of photographs provided to the entity by any federal, State, or local law enforcement agency of persons who have been arrested on a charge of a violation of State or federal law if the entity complies with specified requirements. Effective immediately.

LRB099 14106 HEP 39947 b
AN ACT concerning civil law.

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

Section 5. The Biometric Information Privacy Act is amended by changing Section 15 as follows:

(740 ILCS 14/15)

Sec. 15. Retention; collection; disclosure; destruction.

(a) Except as provided in subsection (b-5) of this Section, a private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual's last interaction with the private entity, whichever occurs first. Absent a valid warrant or subpoena issued by a court of competent jurisdiction, a private entity in possession of biometric identifiers or biometric information must comply with its established retention schedule and destruction guidelines.

(b) Except as provided in subsection (b-5) of this Section, no private entity may collect, capture, purchase, receive
through trade, or otherwise obtain a person's or a customer's 
biometric identifier or biometric information, unless it 
first:

(1) informs the subject or the subject's legally 
authorized representative in writing that a biometric 
identifier or biometric information is being collected or 
stored;

(2) informs the subject or the subject's legally 
authorized representative in writing of the specific 
purpose and length of term for which a biometric identifier 
or biometric information is being collected, stored, and 
used; and

(3) receives a written release executed by the subject 
of the biometric identifier or biometric information or the 
subject's legally authorized representative.

(b-5) For the purposes of crime prevention and law 
enforcement a private detective, private detective agency, 
private security contractor, or private security contractor 
agency licensed under the Private Detective, Private Alarm, 
Private Security, Fingerprint Vendor, and Locksmith Act of 2004 
may collect or capture a scan of a person's face geometry 
without satisfying the notice and release requirements in 
subsection (b) of this Section in order to compare the scan to 
a database of photographs provided to the entity by any 
federal, State, or local law enforcement agency of persons who 
have been arrested on a charge of a violation of State or
federal law if the entity:

(1) establishes and complies with a retention schedule and guidelines for permanently destroying biometric identifiers or biometric information within 30 days of the individual's last interaction with the entity, except that the entity may retain the identifier or information for more than 30 days if: (i) there is reasonable suspicion that the identifier or information contains evidence of criminal activity, or (ii) the identifier or information is relevant to an ongoing investigation or pending criminal trial; and

(2) adheres to the other requirements set forth in this Act.

(c) No private entity in possession of a biometric identifier or biometric information may sell, lease, trade, or otherwise profit from a person's or a customer's biometric identifier or biometric information.

(d) No private entity in possession of a biometric identifier or biometric information may disclose, redisclose, or otherwise disseminate a person's or a customer's biometric identifier or biometric information unless:

(1) the subject of the biometric identifier or biometric information or the subject's legally authorized representative consents to the disclosure or redisclosure;

(2) the disclosure or redisclosure completes a financial transaction requested or authorized by the
subject of the biometric identifier or the biometric information or the subject's legally authorized representative;

(3) the disclosure or redisclosure is required by State or federal law or municipal ordinance; or

(4) the disclosure is required pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction.

(e) A private entity in possession of a biometric identifier or biometric information shall:

(1) store, transmit, and protect from disclosure all biometric identifiers and biometric information using the reasonable standard of care within the private entity's industry; and

(2) store, transmit, and protect from disclosure all biometric identifiers and biometric information in a manner that is the same as or more protective than the manner in which the private entity stores, transmits, and protects other confidential and sensitive information.

(Source: P.A. 95-994, eff. 10-3-08.)

Section 99. Effective date. This Act takes effect upon becoming law.