SB3122

LRB104 18838 JRC 32283 b

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3122

Introduced 2/2/2026, by Sen. Chris Balkema

SYNOPSIS AS INTRODUCED:

740 ILCS 14/10
740 ILCS 14/15
740 ILCS 14/20
740 ILCS 14/25

Amends the Biometric Information Privacy Act. Changes the definition of "biometric identifier". Defines "biometric lock", "biometric time clock", "person", and "security purpose". Waives certain requirements for collecting, capturing, or otherwise obtaining a person's or a customer's biometric identifier or biometric information under certain circumstances relating to security purposes. Provides that nothing in the Act may be construed to apply to information captured by a biometric time clock or biometric lock that converts a person's biometric identifier or biometric information to a mathematical representation. Provides that any person aggrieved by a violation of the Act may commence an action in State court or federal court within one year from its occurrence. Requires the aggrieved person to provide the private entity 30 days' written notice identifying the specific provisions of the Act that have been violated. Provides the private entity 30 days to cure the noticed violation. Exempts a private entity if its employees are covered by a collective bargaining agreement that provides for different policies regarding the retention, collection, disclosure, and destruction of biometric information. Effective immediately.

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A BILL FOR

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 Sections 10, 15, 20, and 25 as follows:

(740 ILCS 14/10)

Sec. 10. Definitions. In this Act:

"Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Biometric identifiers do not include writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color. Biometric identifiers do not include donated organs, tissues, or parts as defined in the Illinois Anatomical Gift Act or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally designated organ procurement agency. Biometric identifiers do not include biological materials regulated under the Genetic Information Privacy Act. Biometric identifiers do not include information captured from a patient in a health care setting or information collected, used, or stored for health care

treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act of 1996. Biometric identifiers do not include an X-ray, roentgen process, computed tomography, MRI, PET scan, mammography, or other image or film of the human anatomy used to diagnose, prognose, or treat an illness or other medical condition or to further validate scientific testing or screening. "Biometric identifier" does not include (i) information captured and converted to a mathematical representation, including, but not limited to, a numeric string or similar method that cannot be used to recreate the biometric identifier or (ii) information that cannot reasonably be used to identify an individual.

"Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual. Biometric information does not include information derived from items or procedures excluded under the definition of biometric identifiers.

"Biometric lock" means a device that is used to grant access to a person and converts the person's biometric identifier or biometric information to a mathematical representation, including, but not limited to, a numeric string or similar method that cannot be used to recreate the person's biometric identifier.

"Biometric time clock" means a device that is used for time management and converts a person's biometric identifier

or biometric information to a mathematical representation, including, but not limited to, a numeric string or similar method that cannot be used to recreate the person's biometric identifier.

"Confidential and sensitive information" means personal information that can be used to uniquely identify an individual or an individual's account or property. Examples of confidential and sensitive information include, but are not limited to, a genetic marker, genetic testing information, a unique identifier number to locate an account or property, an account number, a PIN number, a pass code, a driver's license number, or a social security number.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Person" means a natural person. A person does not include an individual that a private entity has no knowing contact with or awareness of.

"Private entity" means any individual, partnership, corporation, limited liability company, association, or other group, however organized. A private entity does not include a State or local government agency. A private entity does not include any court of Illinois, a clerk of the court, or a judge or justice thereof.

"Security purpose" means for the purpose of preventing or

investigating retail theft, fraud, or any other misappropriation or theft of a thing of value. "Security purpose" includes protecting property from trespass, controlling access to property, or protecting any person from harm, including stalking, violence, or harassment, and includes assisting a law enforcement investigation.

"Written release" means informed written consent, electronic signature, or, in the context of employment, a release executed by an employee as a condition of employment.

(Source: P.A. 103-769, eff. 8-2-24.)

(740 ILCS 14/15)

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

(a) A private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the person from whom biometric information is to be collected or was collected ~~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 order, warrant, or subpoena issued by a court of competent jurisdiction or a local or federal governmental agency, a private entity in possession of biometric identifiers or

biometric information must comply with its established retention schedule and destruction guidelines.

(b) 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) A private entity may collect, capture, or otherwise obtain a person's or a customer's biometric identifier or biometric information without satisfying the requirements of subsection (b) if:

(1) the private entity collects, captures, or otherwise obtains a person's or a customer's biometric identifier or biometric information for a security purpose;

(2) the private entity uses the biometric identifier or biometric information only for a security purpose;

(3) the private entity retains the biometric identifier or biometric information no longer than is reasonably necessary to satisfy a security purpose; and

(4) the private entity documents a process and time frame to delete any biometric information used for the purposes identified in this subsection.

(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.)

(740 ILCS 14/20)

Sec. 20. Right of action.

(a) Any person aggrieved by a violation of this Act shall have a right of action in a State circuit court or as a supplemental claim in federal district court against an offending party<u>, which shall be commenced within one year after the cause of action accrued if, before initiating any action against a private entity, the aggrieved person provides a private entity 30 days' written notice identifying the specific provisions of this Act the aggrieved person alleges</u>

have been or are being violated. If, within the 30 days, the private entity actually cures the noticed violation and provides the aggrieved person an express written statement that the violation has been cured and that no further violations shall occur, no action for individual statutory damages or class-wide statutory damages may be initiated against the private entity. If a private entity continues to violate this Act in breach of the express written statement provided to the aggrieved person under this Section, the aggrieved person may initiate an action against the private entity to enforce the written statement and may pursue statutory damages for each breach of the express written statement and any other violation that postdates the written statement.

(b) A prevailing party may recover for each violation:

(1) against a private entity that negligently violates a provision of this Act, liquidated damages of $1,000 or actual damages, whichever is greater;

(2) against a private entity that intentionally or recklessly violates a provision of this Act, liquidated damages of $5,000 or actual damages, whichever is greater;

(3) reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses; and

(4) other relief, including an injunction, as the State or federal court may deem appropriate.

(c) ~~(b)~~ For purposes of subsection (b) of Section 15, a

private entity that, in more than one instance, collects, captures, purchases, receives through trade, or otherwise obtains the same biometric identifier or biometric information from the same person using the same method of collection in violation of subsection (b) of Section 15 has committed a single violation of subsection (b) of Section 15 for which the aggrieved person is entitled to, at most, one recovery under this Section.

(d) ~~(c)~~ For purposes of subsection (d) of Section 15, a private entity that, in more than one instance, discloses, rediscloses, or otherwise disseminates the same biometric identifier or biometric information from the same person to the same recipient using the same method of collection in violation of subsection (d) of Section 15 has committed a single violation of subsection (d) of Section 15 for which the aggrieved person is entitled to, at most, one recovery under this Section regardless of the number of times the private entity disclosed, redisclosed, or otherwise disseminated the same biometric identifier or biometric information of the same person to the same recipient.

(Source: P.A. 103-769, eff. 8-2-24.)

(740 ILCS 14/25)

Sec. 25. Construction.

(a) Nothing in this Act shall be construed to impact the admission or discovery of biometric identifiers and biometric

information in any action of any kind in any court, or before any tribunal, board, agency, or person.

(b) Nothing in this Act shall be construed to conflict with the X-Ray Retention Act, the federal Health Insurance Portability and Accountability Act of 1996, and the rules promulgated under either Act.

(c) Nothing in this Act shall be deemed to apply in any manner to a financial institution or an affiliate of a financial institution that is subject to Title V of the federal Gramm-Leach-Bliley Act of 1999 and the rules promulgated thereunder.

(d) Nothing in this Act shall be construed to conflict with the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 and the rules promulgated thereunder or information captured by an alarm system installed by a person licensed under that Act and its adopted rules.

(e) Nothing in this Act shall be construed to apply to a contractor, subcontractor, or agent of a State or federal agency or local unit of government when working for that State or federal agency or local unit of government.

(f) Nothing in this Act may be construed to apply to information captured by a biometric time clock or biometric lock that converts a person's biometric identifier or biometric information to a mathematical representation, including, but not limited to, a numeric string or similar

method that cannot be used to recreate the person's biometric identifier or biometric information.

(g) Nothing in this Act may be construed to apply to a private entity if the private entity's employees are covered by a collective bargaining agreement that provides for different policies regarding the retention, collection, disclosure, and destruction of biometric information.

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

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