



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB3414**

Introduced 2/22/2021, by Rep. Thaddeus Jones

#### SYNOPSIS AS INTRODUCED:

740 ILCS 14/20  
740 ILCS 14/25  
740 ILCS 14/35 new

Amends the Biometric Information Privacy Act. Deletes language allowing a prevailing party in an action to recover for each violation of the Act. Provides that nothing in the Act shall be construed to apply to a licensed operator of a facility collecting, storing, or transmitting biometric information. Provides that all claims filed under the Act shall be filed within one year of the initial violation. Provides that continuing violations of the Act, or violations of separate provisions of the Act, shall be considered the same occurrence and are subject to the one-year statute of limitations calculated from the date of the initial violation. Provides that an employee may waive any violation under the Act after an explanation of rights. Effective immediately.

LRB102 13631 LNS 18981 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 5. The Biometric Information Privacy Act is  
5 amended by changing Sections 20 and 25 and by adding Section 35  
6 as follows:

7 (740 ILCS 14/20)

8 Sec. 20. Right of action.

9 (a) Any person aggrieved by a violation of this Act shall  
10 have a right of action in a State circuit court or as a  
11 supplemental claim in federal district court against an  
12 offending party. A prevailing party may recover ~~for each~~  
13 ~~violation:~~

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

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

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

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

1       (b) All actions filed under this Act shall be filed within  
2       one year of the initial violation. Continuing violations of  
3       this Act, or violations of separate provisions of this Act,  
4       shall be considered the same occurrence for purposes of  
5       damages under Section 20 and are subject to the one-year  
6       statute of limitations calculated from the date of the initial  
7       violation.

8       (c) An employee may waive the right to file an action to  
9       enforce any violation of this Act after an explanation of  
10       rights contained in this Act.

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

12               (740 ILCS 14/25)

13               Sec. 25. Construction.

14               (a) Nothing in this Act shall be construed to impact the  
15       admission or discovery of biometric identifiers and biometric  
16       information in any action of any kind in any court, or before  
17       any tribunal, board, agency, or person.

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

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

1 promulgated thereunder.

2 (d) Nothing in this Act shall be construed to conflict  
3 with the Private Detective, Private Alarm, Private Security,  
4 Fingerprint Vendor, and Locksmith Act of 2004 and the rules  
5 promulgated thereunder.

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

10 (f) Nothing in this Act shall be construed to apply to a  
11 licensed operator of a facility, as defined in the Nursing  
12 Home Care Act, collecting, storing, or transmitting biometric  
13 information if:

14 (1) the biometric information or biometric identifier  
15 are used exclusively for:

16 (A) employment, human resources, compliance,  
17 payroll, identification, or authentication purposes;  
18 or

19 (B) safety, security, or fraud prevention  
20 purposes;

21 (2) the licensed operator of a facility does not sell,  
22 lease, or trade the biometric identifier or biometric  
23 information collected; and

24 (3) the private entity documents a process and time  
25 frame to delete any biometric information or biometric  
26 identifier used for the purposes identified in paragraph

1           (1).

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

3           (740 ILCS 14/35 new)

4           Sec. 35. Applicability of amendatory Act. The changes made  
5 by this amendatory Act of the 102nd General Assembly apply to  
6 all actions pending in any State of federal court filed  
7 pursuant to this Act as of the effective date of those changes  
8 and to all causes of action accruing and actions filed on or  
9 after the effective date of this amendatory Act of the 102nd  
10 General Assembly.

11           Section 97. Severability. The provisions of this Act are  
12 severable under Section 1.31 of the Statute on Statutes.

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