

HOUSE BILL NO. 72

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THOMPSON

Introduced: 1/20/17

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to biometric information."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 18.13 is amended by adding new sections to read:

4 **Article 2. Biometric Information.**

5 **Sec. 18.13.200. Biometric data collection.** (a) A person may not collect for
6 use in a biometric system the biometric data of an individual who is not the collector
7 unless the collector first

8 (1) notifies the individual in a clear manner

9 (A) that the biometric data is being collected for use in a
10 biometric system;

11 (B) of the specific purpose for which the biometric information
12 will be used; and

13 (C) of the length of time the biometric information will be kept;
14 and

15 (2) receives, in a written, electronic, or other form by which the

1 consent can be documented, the individual's full consent to

2 (A) the collection of the biometric data for use in a biometric
3 system;

4 (B) the specific purpose for which the biometric information
5 will be used; and

6 (C) the length of time the biometric information will be kept.

7 (b) An individual may revoke or amend the individual's consent provided
8 under (a) of this section at any time after the original purpose for which the consent
9 was given ceases to exist.

10 **Sec. 18.13.210. Disclosure of biometric information.** (a) A collector and a
11 contractor may not disclose, transfer, or distribute the biometric information of another
12 individual, except to its contractor or to a person to authenticate the identity of the
13 individual providing the biometric information.

14 (b) A disclosure, transfer, or distribution under (a) of this section may be made
15 only for the original purpose for which the biometric information was to be used.

16 **Sec. 18.13.220. Sale of biometric information.** A person may not sell
17 biometric information, except that a contractor may sell the contractor's business to
18 another person and transfer the biometric information to the buyer.

19 **Sec. 18.13.230. Disposal.** (a) When a collector no longer needs an individual's
20 biometric information for the original purpose for which the biometric information
21 was to be used, the collector and the contractor, if any, shall, within 120 days and
22 unless prohibited by other law, a regulation, or a court order, remove the individual's
23 biometric information from all databases and storage systems and destroy the
24 biometric information.

25 (b) Within 60 days after determining that the collector no longer needs an
26 individual's biometric information for the original purpose for which the biometric
27 information was to be used, the collector shall notify the contractor, if any, that the
28 collector is to remove the individual's biometric information from all databases and
29 storage systems and destroy the biometric information.

30 **Sec. 18.13.240. Use of biometric information.** A collector may use biometric
31 information for a fraud prevention purpose in addition to the original purpose for

1 which the biometric information was to be used.

2 **Sec. 18.13.250. Storage of biometric information.** A collector and a
3 contractor shall store an individual's biometric information in a secure manner, which
4 may include encryption or another appropriate method, to ensure that the identity of
5 the individual who provided the biometric information is protected.

6 **Sec. 18.13.260. Right of action.** An individual may bring a civil action against
7 a person who intentionally violates AS 18.13.200 - 18.13.290. A person who
8 intentionally violates AS 18.13.200 - 18.13.290 is liable to the individual for a penalty
9 of \$1,000, except that, if the violation resulted in profit or monetary gain to the person,
10 the penalty is \$5,000. In this subsection, "intentionally" has the meaning given in
11 AS 11.81.900.

12 **Sec. 18.13.270. Exemptions.** (a) AS 18.13.200 - 18.13.290 do not apply to the

13 (1) collection, retention, analysis, disclosure, or distribution of

14 (A) biometric information for a law enforcement purpose,
15 including the identification of perpetrators, the investigation of crimes, the
16 identification of missing or unidentified persons, or the identification of human
17 remains;

18 (B) biometric information when authorized by state or federal
19 law;

20 (C) facial images by the Department of Administration for
21 drivers' licenses issued under AS 28.15, for state identification cards issued
22 under AS 18.65.310, for administering AS 28.15, or for administering
23 AS 18.65.310; or

24 (D) a photograph, unless the photograph is collected for use in
25 a biometric system; or

26 (2) retention of voices recorded for quality assurance purposes.

27 **Sec. 18.13.290. Definitions.** In AS 18.13.200 - 18.13.290,

28 (1) "biometric data" means fingerprints, handprints, voices, iris
29 images, retinal images, vein scans, hand geometry, finger geometry, or other physical
30 characteristics of an individual;

31 (2) "biometric information" means biometric data used in a biometric

1 system;

2 (3) "biometric system" means an automated system that

3 (A) captures biometric data from an individual's biometric
4 information;

5 (B) extracts and processes the biometric data captured under
6 (A) of this paragraph;

7 (C) stores the biometric data extracted under (B) of this
8 paragraph;

9 (D) compares the biometric data extracted under (B) of this
10 paragraph with biometric data from the individual stored for use in future
11 recognition of the individual; and

12 (E) determines how well the extracted and stored biometric
13 data match when compared under (D) of this paragraph and indicates whether
14 an identification or verification of identity has been achieved;

15 (4) "collector" means a person who collects the biometric information
16 of another individual;

17 (5) "contractor" means a person

18 (A) who contracts with a collector to store the biometric
19 information collected by the collector; or

20 (B) to whom the contractor sells the contractor's business and
21 transfers the biometric information;

22 (6) "original purpose" means the specific purpose stated for the use of
23 biometric information under AS 18.13.200(a)(1)(B);

24 (7) "person" includes

25 (A) a corporation, company, partnership, firm, association,
26 organization, business trust, or society;

27 (B) an individual;

28 (C) an agency of the executive, judicial, or legislative branch of
29 state government;

30 (D) a municipality or an agency of a municipality.

31 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to

- 1 read:
- 2 REVISOR'S INSTRUCTION. Wherever "this chapter" appears in AS 18.13.010 -
- 3 18.13.100, the revisor of statutes shall substitute "AS 18.13.010 - 18.13.100."