

**SENATE BILL NO. 98**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATORS WIELECHOWSKI, Coghill, Ellis, Menard, McGuire, Giessel, Egan, Paskvan, Thomas

Introduced: 3/11/11

Referred: State Affairs, Judiciary

**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 is amended by adding a new chapter to read:

4                               **Chapter 14. Biometric Information.**

5                **Sec. 18.14.010. Biometric information consent.** (a) A person may not retain  
6                or analyze, or disclose or distribute to another person, biometric information on an  
7                individual without first obtaining the informed and written consent of the individual.

8                (b) An individual may, at any time, revoke or amend the individual's consent  
9                provided under (a) of this section.

10               **Sec. 18.14.020. Alternate identification.** A person may not require an  
11               individual to provide biometric data to the person for the purpose of identifying the  
12               individual if the individual provides the person with a valid current

13                               (1) United States passport; and

14                               (2) identification card issued by a state in the United States or by a  
15               branch of the armed forces of the United States.

1           **Sec. 18.14.030. Uniform consent form.** The Department of Health and Social  
 2 Services may by regulation adopt a uniform consent form to assist persons to meet the  
 3 requirements for the consent required by AS 18.14.010. A person who retains or  
 4 analyzes, or discloses or distributes to another person, biometric information, based on  
 5 consent that is provided in a uniform consent form that has not been revoked, is  
 6 exempt from civil liability under AS 18.14.060 and from criminal liability for the  
 7 retention, analysis, disclosure, or distribution of the biometric information.

8           **Sec. 18.14.040. General authorization.** A general authorization for the release  
 9 of medical records or medical information may not be construed to constitute the  
 10 informed and written consent required by AS 18.14.010.

11           **Sec. 18.14.050. Private right of action.** An individual may bring a civil action  
 12 against another person who violates AS 18.14.010 or 18.14.020. Except as provided  
 13 by AS 18.14.030, a person who violates AS 18.14.010 is liable to the individual for  
 14 actual damages and a penalty of \$5,000, except that, if the violation resulted in profit  
 15 or monetary gain to the person, the penalty is \$100,000.

16           **Sec. 18.14.060. Exemptions.** This chapter does not apply to the retention,  
 17 analysis, disclosure, or distribution of biometric information

18                   (1) for a law enforcement purpose, including the identification of  
 19 perpetrators, the investigation of crimes, the identification of missing or unidentified  
 20 persons, or the identification of human remains; or

21                   (2) when authorized by state or federal law.

22           **Sec. 18.14.090. Definitions.** In this chapter,

23                   (1) "biometric data" means fingerprints, handprints, voices, facial  
 24 images, iris images, or retinal images;

25                   (2) "biometric information" means biometric data that is used in a  
 26 biometric system for fingerprint recognition, hand geometry recognition, voice  
 27 recognition, facial recognition, iris scans, retinal scans, or palm vein recognition;

28                   (3) "biometric system" means an automated system capable of

29                           (A) capturing biometric data from an individual's biometric  
 30 information;

31                           (B) extracting and processing the biometric data captured under

1 (A) of this paragraph;

2 (C) storing the biometric data extracted under (B) of this  
3 paragraph;

4 (D) comparing the biometric data extracted under (B) of this  
5 paragraph with biometric data stored for the individual for use in future  
6 recognition of the individual;

7 (E) determining how well the extracted and stored biometric  
8 data match when compared under (D) of this paragraph, and indicating  
9 whether an identification or verification of identity has been achieved;

10 (4) "facial recognition" means the use of an image of the visible  
11 physical structure of an individual's face for recognition purposes;

12 (5) "fingerprint recognition" means the use of the physical structure of  
13 an individual's fingerprint for recognition purposes;

14 (6) "governmental entity" means a state agency, a municipality, and an  
15 agency of a municipality; in this paragraph, "state agency" means an agency of the  
16 executive, judicial, or legislative branch of state government;

17 (7) "hand geometry recognition" means the use of the physical  
18 structure of an individual's hand for recognition purposes;

19 (8) "iris scan" means the use of an image of the physical structure of an  
20 individual's iris for recognition purposes;

21 (9) "palm vein recognition" means the use of the veins in an  
22 individual's palm print for recognition purposes;

23 (10) "person" has the meaning given in AS 01.10.060, and includes a  
24 governmental entity;

25 (11) "retinal scan" means the use of the pattern of blood vessels in an  
26 individual's eye for recognition purposes.