

Protecting Alaskan's Privacy

SB 98 – Biometric Information

Privacy in the Constitution

- “The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.”
 - Alaska State Constitution: Article 1, Section 22

Genesis of Alaska's Right to Privacy

- “[the right to privacy in Alaska’s Constitution] was prompted by fear of the potential for misuse of computerized information systems, which were then in their infancy.”
 - *Alaska’s Constitution: A Citizen’s Guide* by the Gordon Harrison with the Legislative Affairs Agency, page 37.
- We are in the same situation today, with computerized information threatening our privacy.

Legislative Obligation to Protect

- Alaskan's right to privacy passed overwhelmingly on the 1972 ballot
 - Over 86% approval
- The Legislature has an affirmative constitutional obligation to protect Alaskan's privacy.
- Alaska has a stronger right to privacy than is outlined in the US Constitution

DNA Privacy Protections

- Legislature passed protections in 2004
 - Unanimous support in both bodies
 - SB 98 passed the Senate unanimously
- Maintaining a healthy, thriving private sector is important
- But the Legislature is constitutionally obligated to protect Alaskan's privacy

What are Biometrics?

- Definitions start on page 4 of SB 98
- Some examples of biometrics include fingerprints, hand geometry recognition, vein recognition, facial mapping, retinal scans, voice recognition, etc.

Biometric Privacy is similar to Genetic Privacy

- Increasing number of markers to link health impacts to biometric information
 - Certain fingerprints can be linked to certain diseases and genetic disorders
 - Iris scans can show diabetes, hypertension, etc.
 - Vein scans can indicate heart disease
 - Hand geometry can indicate testosterone levels, which can indicate health risks
- Biometric information should get the same protections afforded to DNA

Federal Privacy Laws Lacking

- The US Constitution does not explicitly give citizens a right to privacy
- Federal laws only focus on specific sectors
 - Federal Government with the Privacy Act of 1974
 - Healthcare through HIPPA in 1996
 - Financial Institutions with the Gramm-Leach-Bliley Act of 1999
- No federal law protects biometric information

Others States address Biometrics

- 18 other states have laws on biometrics
- California has strong privacy laws
 - ChoicePoint data breach in 2006 was disclosed because of these strong protections
 - Data compromised by ChoicePoint selling the data to a fraudulent company
- Legislative Research did a closer analysis of three states, Illinois, Indiana and Texas
 - Highlights the variety of policy decisions in terms of where protections can apply

The Need for Biometric Privacy

- Without legislative action, Alaskans' privacy can be exploited for financial gain
- Invasive, unsettling possibilities
 - False fingerprints on crime scenes
 - Different pricing for customers
- Cannot replace biometric identifiers
 - Different from a credit card or even a SSN
- Nothing is more fundamentally private than DNA and biometric information

Biometrics easy to duplicate

- Easily duplicated, copied, stolen, etc.
 - “Biometric information...can be copied easily, shared quickly and widely, combined, and stored for long periods of time without degrading. That is how modern identification systems most threaten practical obscurity and the privacy it has afforded people for all of history.” (emphasis added)
 - Jim Harper, Cato Institute

Data breaches are common

- Data breaches are common, even for companies with top security systems
 - RSA data breach with Lockheed Martin records
 - Over 30 million sensitive records compromised in 2011

SB 98 Increases Privacy Protections

- Increases Privacy Protections
 - Clear notification, authorization and usage
 - No distribution or sale of information, safe storage
 - Requires disposal after use
 - Possible civil suits for violations

SB 98 Gives Alaskans a Choice

- Alternative ID section preserves choice
- Proposed alternative language
 - Sec 18.14.040. Alternative identification. If a person who administers an examination requires an individual taking the examination to provide biometric information to the person for the purposes of identifying the individual taking the examination, the person may not require that the individual provide the biometric information if the individual provides the person with a passport, or an alternative identification acceptable to the person administering the examination.

Conclusion

- SB 98 is a compromise
- Not a ban on obtaining biometric information
- SB 98 simply adds reasonable protections and preserves choice