

CS FOR SENATE BILL NO. 98(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/18/11

Referred: Judiciary

**Sponsor(s): SENATORS WIELECHOWSKI, Coghill, Ellis, Menard, McGuire, Giessel, Egan, Paskvan,
Thomas, Dyson, Wagoner**

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; or

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.

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to another person, biometric information, based on consent that is provided in a uniform consent form that has not been revoked, is exempt from civil liability under AS 18.14.060 and from criminal liability for the retention, analysis, disclosure, or distribution of the biometric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

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

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

Sec. 18.14.060. Exemptions. This chapter does not apply to the collection, retention, analysis, disclosure, or distribution of

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

(2) biometric information when authorized by state or federal law;

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

(4) facial images that are not used in a biometric system.

Sec. 18.14.090. Definitions. In this chapter,

(1) "biometric data" means fingerprints, handprints, voices, facial images, iris images, retinal images, vein scans, hand geometry, or finger geometry;

(2) "biometric information" means biometric data that is used in a biometric system for fingerprint recognition, hand geometry recognition, finger geometry recognition, voice recognition, facial recognition, iris scans, retinal scans, or

1 vein recognition;

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

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

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

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

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

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

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

17 (5) "finger geometry recognition" means the use of the shape and
18 dimensions of one or more fingers for recognition purposes;

19 (6) "fingerprint recognition" means the use of the physical structure of
20 an individual's fingerprint for recognition purposes;

21 (7) "governmental entity" means a state agency, a municipality, and an
22 agency of a municipality; in this paragraph, "state agency" means an agency of the
23 executive, judicial, or legislative branch of state government;

24 (8) "hand geometry recognition" means the use of the physical
25 structure of an individual's hand for recognition purposes;

26 (9) "iris scan" means the use of an image of the physical structure of an
27 individual's iris for recognition purposes;

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

30 (11) "retinal scan" means the use of the pattern of blood vessels in an
31 individual's eye for recognition purposes;

1 (12) "vein recognition" means the use of the veins in an individual's
2 skin for recognition purposes.