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Bannister

4/9/12

HOUSE CS FOR CS FOR SENATE BILL NO. 98()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY**Offered:****Referred:**

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

REPRESENTATIVES Tuck, Petersen, Kawasaki, Millett, Gara, Gardner

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 collection.** (a) A person may not
6 collect the biometric information of another individual unless the person first

7 (1) notifies the individual in a clear manner that the biometric
8 information is being collected, the specific purpose for which the biometric
9 information will be used, and how long the biometric information will be kept; and

10 (2) receives, in a written, electronic, or other form by which the
11 consent can be documented, the individual's full consent to the collection of the
12 biometric information, the specific purpose for which the biometric information will
13 be used, and how long the biometric information will be kept.

14 (b) An individual may revoke or amend the individual's consent provided
15 under (a) of this section at any time after the original purpose for which the consent

1 was given ceases to exist.

2 **Sec. 18.14.020. Disclosure of biometric information.** (a) A collector and a
3 collector's contractor may not disclose, transfer, or distribute the biometric information
4 of another individual, except to a contractor or to a person to authenticate the identity
5 of the individual providing the biometric information.

6 (b) A disclosure, transfer, or distribution under (a) of this section may only be
7 made for the original purpose for which the information was collected.

8 **Sec. 18.14.030. Sale of biometric information.** A person may not sell
9 biometric information, except that a contractor may sell the contractor's business to
10 another person and transfer the biometric information to the buyer.

11 **Sec. 18.14.040. Disposal.** (a) When a collector no longer needs an individual's
12 biometric information for the collector's original purpose, the collector and the
13 collector's contractor, if any, shall, within 120 days and unless prohibited by other law,
14 a regulation, or a court order, remove the individual's biometric information from all
15 databases and storage systems and destroy the biometric information.

16 (b) Within 30 days after determining that the collector no longer needs an
17 individual's biometric information for the collector's original purpose, the collector
18 shall notify the collector's contractor, if any, that the collector is to remove the
19 individual's biometric information from all databases and storage systems and destroy
20 the biometric information.

21 **Sec. 18.14.050. Use of biometric information.** A collector may use the
22 biometric information for a specific authorized security or fraud prevention purpose in
23 addition to the specific purpose for which the biometric information was collected.

24 **Sec. 18.14.060. Storage of biometric information.** A collector and a
25 contractor shall store an individual's biometric information in a secure manner, which
26 may include encryption or another appropriate method, to ensure that the identity of
27 the individual who provided the biometric information is protected.

28 **Sec. 18.14.070. Right of action.** An individual may bring a civil action against
29 a person who intentionally violates this chapter. A person who violates this chapter is
30 liable to the individual for actual damages and a penalty of \$5,000, except that, if the
31 violation resulted in profit or monetary gain to the person, the penalty is \$100,000. In

1 this subsection, "intentionally" has the meaning given in AS 11.81.900.

2 **Sec. 18.14.080. Exemptions.** (a) This chapter does not apply to the collection,
3 retention, analysis, disclosure, or distribution of

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

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

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

11 (4) a photograph, unless the photograph is collected for use in a
12 biometric system.

13 (b) This chapter does not apply to the retention of voices recorded for quality
14 assurance purposes.

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

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

19 (2) "biometric information" means biometric data that is used in a
20 biometric system for fingerprint recognition, hand geometry recognition, finger
21 geometry recognition, voice recognition, iris scans, retinal scans, vein recognition, or
22 other recognition of a physical characteristic of an individual;

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

24 (A) capturing biometric data from an individual's biometric
25 information;

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

28 (C) storing the biometric data extracted under (B) of this
29 paragraph;

30 (D) comparing the biometric data extracted under (B) of this
31 paragraph with biometric data stored for the individual for use in future

1 recognition of the individual; and

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

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

7 (5) "contractor" means a person who contracts with a collector to store
8 the biometric information collected by the collector, and includes a person to whom
9 the contractor sells the contractor's business and transfers the biometric information;

10 (6) "finger geometry recognition" means the use of the shape and
11 dimensions of one or more fingers for recognition purposes;

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

14 (8) "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 (9) "hand geometry recognition" means the use of the physical
18 structure of an individual's hand for recognition purposes;

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

21 (11) "person" has the meaning given in AS 01.10.060, and includes a
22 governmental entity;

23 (12) "retinal scan" means the use of the pattern of blood vessels in an
24 individual's eye for recognition purposes;

25 (13) "vein recognition" means the use of the veins in an individual's
26 skin for recognition purposes.