

SENATE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS WIELECHOWSKI, Ellis

Introduced: 4/10/09

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 18.13.010(a) is amended to read:

4 (a) Except as provided in (b) of this section,

5 (1) a person may not collect a DNA sample **or other biometric**
6 **information** from a person, perform a DNA analysis on a sample, retain a DNA
7 sample **or other biometric information, retain** [OR] the results of a DNA analysis,
8 or disclose the results of a DNA analysis **or other biometric information** unless the
9 person has first obtained the informed and written consent of the person, or the
10 person's legal guardian or authorized representative, for the collection, analysis,
11 retention, or disclosure;

12 (2) a DNA sample **or other biometric information** and the results of
13 a DNA analysis performed on the sample are the exclusive property of the person
14 sampled, [OR] analyzed, **or from whom the biometric information was taken**.

15 * **Sec. 2.** AS 18.13.010(b) is amended to read:

1 (b) The prohibitions of (a) of this section do not apply to DNA samples
2 collected, other biometric information collected, and DNA analyses conducted

3 (1) under AS 44.41.035 or comparable provisions of another
4 jurisdiction;

5 (2) for a law enforcement purpose, including the identification of
6 perpetrators and the investigation of crimes and the identification of missing or
7 unidentified persons or deceased individuals;

8 (3) for determining paternity;

9 (4) to screen newborns as required by state or federal law;

10 (5) for the purpose of emergency medical treatment; or

11 (6) for background checks as permitted or required by state
12 statute or by federal statute or regulation.

13 * **Sec. 3.** AS 18.13.020 is amended to read:

14 **Sec. 18.13.020. Private right of action.** A person may bring a civil action
15 against a person who collects a DNA sample or other biometric information from
16 the person, performs a DNA analysis on a sample, retains a DNA sample or other
17 biometric information, retains the results of a DNA analysis, or discloses the results
18 of a DNA analysis or other biometric information in violation of this chapter. In
19 addition to the actual damages suffered by the person, a person violating this chapter
20 shall be liable to the person for damages in the amount of \$5,000 or, if the violation
21 resulted in profit or monetary gain to the violator, \$100,000.

22 * **Sec. 4.** AS 18.13.030(a) is amended to read:

23 (a) A person who is not a governmental entity commits the crime of
24 unlawful biometric information [DNA] collection, analysis, retention, or disclosure
25 if the person who is not a governmental entity knowingly collects a DNA sample or
26 other biometric information from a person, performs a DNA analysis on a sample,
27 retains a DNA sample or other biometric information, retains the results of a DNA
28 analysis, or discloses the results of a DNA analysis or other biometric information
29 in violation of this chapter.

30 * **Sec. 5.** AS 18.13.030(c) is amended to read:

31 (c) Unlawful biometric information [DNA] collection, analysis, retention, or

1 disclosure is a class A misdemeanor.

2 * **Sec. 6.** AS 18.13.100 is amended by adding new paragraphs to read:

3 (3) "biometric information" means information that is based on an
4 individual's unique behavioral or physiological characteristics, including fingerprints,
5 hand geometry, voice recognition, facial recognition, iris scan, retinal scan, and DNA;

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

9 (5) "person" has the meaning given in AS 01.10.060, and includes a
10 governmental entity.