

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 5 consent that is provided in a uniform consent form that has not been revoked, is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.