

CS FOR SENATE BILL NO. 98(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/16/11

Referred: Today's Calendar

**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) Unless the individual's biometric information was needed for a specific
15 authorized law enforcement, security, or fraud prevention purpose, an individual may,

1 at any time, revoke or amend the individual's consent provided under (a) of this
2 section.

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

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

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

12 **Sec. 18.14.040. Alternate identification.** If a person who administers an
13 occupational examination requires an individual taking the examination to provide
14 biometric information to the person for the purpose of identifying the individual taking
15 the examination, the person may not require that the individual provide the biometric
16 information if the individual provides the person with alternate identification
17 acceptable to the person administering the occupational examination. In this section,
18 "occupational examination" includes an examination required for admission to an
19 institution of higher learning.

20 **Sec. 18.14.050. Disposal.** (a) When a collector no longer needs an individual's
21 biometric information for the collector's original purpose, or if an individual requests
22 in writing that the individual's biometric information be removed from all databases or
23 other storage systems and be permanently destroyed, the collector and the collector's
24 contractor, if any, shall, within 120 days and unless prohibited by other law, a
25 regulation, or a court order, remove the individual's biometric information from all
26 databases and storage systems and destroy the biometric information.

27 (b) Within 30 days after determining that the collector no longer needs an
28 individual's biometric information for the collector's original purpose or that the
29 individual has requested the removal and destruction, the collector shall notify the
30 collector's contractor, if any, that the collector is to remove the individual's biometric
31 information from all databases and storage systems and destroy the biometric

1 information.

2 **Sec. 18.14.060. Use of biometric information.** A collector may not use
3 biometric information for marketing purposes or for general surveillance purposes, but
4 a collector may use the biometric information for a specific authorized security or
5 fraud prevention purpose in addition to the specific purpose for which the biometric
6 information was collected.

7 **Sec. 18.14.070. Storage of biometric information.** A collector and a
8 contractor shall store an individual's biometric information in a secure manner, which
9 may include encryption or another appropriate method, to ensure that the identity of
10 the individual who provided the biometric information is protected.

11 **Sec. 18.14.080. Right of action.** (a) Except as provided in (b) of this section,
12 an individual may bring a civil action against a person who knowingly violates this
13 chapter. A person who violates this chapter is liable to the individual for actual
14 damages and a penalty of \$5,000, except that, if the violation resulted in profit or
15 monetary gain to the person, the penalty is \$100,000. In this subsection, "knowingly"
16 has the meaning given in AS 11.81.900.

17 (b) An action for damages, a penalty, or both may not be brought against the
18 state, the agencies of the state, or the officers or employees of the state or the agencies
19 of the state for violations of this chapter or for other claims arising under this chapter.

20 **Sec. 18.14.085. Exemptions.** (a) This chapter does not apply to the collection,
21 retention, analysis, disclosure, or distribution of

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

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

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

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

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

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

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

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

8 (A) capturing biometric data from an individual's biometric
9 information;

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

12 (C) storing the biometric data extracted under (B) of this
13 paragraph;

14 (D) comparing the biometric data extracted under (B) of this
15 paragraph with biometric data stored for the individual for use in future
16 recognition of the individual; and

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

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

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

25 (6) "facial mapping" means the use of digital technology to measure
26 the features of an individual's face;

27 (7) "facial recognition" means the use of facial mapping for
28 recognition purposes;

29 (8) "finger geometry recognition" means the use of the shape and
30 dimensions of one or more fingers for recognition purposes;

31 (9) "fingerprint recognition" means the use of the physical structure of

1 an individual's fingerprint for recognition purposes;

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

5 (11) "hand geometry recognition" means the use of the physical
6 structure of an individual's hand for recognition purposes;

7 (12) "iris scan" means the use of an image of the physical structure of
8 an individual's iris for recognition purposes;

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

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

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