

HOUSE BILL NO. 233

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GARDNER, Neuman, Tuck, Dick, Kerttula, Keller, Gara, Millett, Kawasaki, Petersen, Cissna

Introduced: 4/8/11

Referred: Health and Social Services, 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.** Except as provided by
11 AS 18.14.030, a person may not require an individual to provide biometric
12 information to the person for the purpose of identifying the individual if the individual
13 provides the person with a valid current

14 (1) United States passport; or

15 (2) identification card issued by a state in the United States or by a

1 branch of the armed forces of the United States.

2 **Sec. 18.14.030. Employment or contract requirement.** (a) Even if an
3 individual can provide alternate identification under AS 18.14.020, a person may
4 require the individual to provide the individual's biometric information to the person
5 as a condition of being employed by the person or obtaining a contract with the person
6 if the biometric information is needed to enable the individual to carry out the duties
7 of the position or the contract. The person may retain the biometric information during
8 the employment or contract and may analyze the biometric data as necessary for the
9 employment or contract.

10 (b) Before obtaining the biometric information under (a) of this section, the
11 person shall obtain the informed and written consent of the individual.

12 (c) A person who obtains biometric information under (a) of this section may
13 not disclose or distribute the biometric information to another person without first
14 obtaining the informed and written consent of the individual to disclosure or
15 distribution.

16 **Sec. 18.14.040. Uniform consent form.** The Department of Health and Social
17 Services may by regulation adopt a uniform consent form to assist persons to meet the
18 requirements for the consent required by AS 18.14.010. A person who retains or
19 analyzes, or discloses or distributes to another person, biometric information, based on
20 consent that is provided in a uniform consent form that has not been revoked, is
21 exempt from civil liability under AS 18.14.060 and from criminal liability for the
22 retention, analysis, disclosure, or distribution of the biometric information.

23 **Sec. 18.14.050. General authorization.** A general authorization for the release
24 of medical records or medical information may not be construed to constitute the
25 informed and written consent required by AS 18.14.010.

26 **Sec. 18.14.060. Private right of action.** An individual may bring a civil action
27 against another person who violates AS 18.14.010, 18.14.020, or 18.14.030. Except as
28 provided by AS 18.14.040, a person who violates AS 18.14.010 is liable to the
29 individual for actual damages and a penalty of \$5,000, except that, if the violation
30 resulted in profit or monetary gain to the person, the penalty is \$100,000.

31 **Sec. 18.14.070. Exemptions.** This chapter does not apply to the collection,

1 retention, analysis, disclosure, or distribution of

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

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

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

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

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

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

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

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

18 (A) capturing biometric data from an individual's biometric
19 information;

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

22 (C) storing the biometric data extracted under (B) of this
23 paragraph;

24 (D) comparing the biometric data extracted under (B) of this
25 paragraph with biometric data stored for the individual for use in future
26 recognition of the individual; and

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

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

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

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

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

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

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

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

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

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