



Sen. Bill Cunningham

Filed: 5/19/2023

10300HB3811sam002

LRB103 31048 LNS 62293 a

1 AMENDMENT TO HOUSE BILL 3811

2 AMENDMENT NO. _____. Amend House Bill 3811, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Biometric Information Privacy Act is
6 amended by changing Sections 10 and 20 as follows:

7 (740 ILCS 14/10)

8 Sec. 10. Definitions. In this Act:

9 "Biometric identifier" means a retina or iris scan,
10 fingerprint, voiceprint, or scan of hand or face geometry.
11 Biometric identifiers do not include writing samples, written
12 signatures, photographs, human biological samples used for
13 valid scientific testing or screening, demographic data,
14 tattoo descriptions, or physical descriptions such as height,
15 weight, hair color, or eye color. Biometric identifiers do not
16 include donated organs, tissues, or parts as defined in the

1 Illinois Anatomical Gift Act or blood or serum stored on
2 behalf of recipients or potential recipients of living or
3 cadaveric transplants and obtained or stored by a federally
4 designated organ procurement agency. Biometric identifiers do
5 not include biological materials regulated under the Genetic
6 Information Privacy Act. Biometric identifiers do not include
7 information captured from a patient in a health care setting
8 or information collected, used, or stored for health care
9 treatment, payment, or operations under the federal Health
10 Insurance Portability and Accountability Act of 1996.
11 Biometric identifiers do not include an X-ray, roentgen
12 process, computed tomography, MRI, PET scan, mammography, or
13 other image or film of the human anatomy used to diagnose,
14 prognose, or treat an illness or other medical condition or to
15 further validate scientific testing or screening.

16 "Biometric information" means any information, regardless
17 of how it is captured, converted, stored, or shared, based on
18 an individual's biometric identifier used to identify an
19 individual. Biometric information does not include information
20 derived from items or procedures excluded under the definition
21 of biometric identifiers.

22 "Confidential and sensitive information" means personal
23 information that can be used to uniquely identify an
24 individual or an individual's account or property. Examples of
25 confidential and sensitive information include, but are not
26 limited to, a genetic marker, genetic testing information, a

1 unique identifier number to locate an account or property, an
2 account number, a PIN number, a pass code, a driver's license
3 number, or a social security number.

4 "Electronic signature" means an electronic sound, symbol,
5 or process attached to or logically associated with a record
6 and executed or adopted by a person with the intent to sign the
7 record. An electronic signature is not obtained:

8 (1) by a person's acceptance of general or broad terms
9 of a user agreement or similar document;

10 (2) by a person's hovering over, muting, pausing, or
11 closing a given piece of digital content; or

12 (3) through coercion or deception.

13 "In writing" may include electronic communications
14 provided directly to the person.

15 "Private entity" means any individual, partnership,
16 corporation, limited liability company, association, or other
17 group, however organized. A private entity does not include a
18 State or local government agency. A private entity does not
19 include any court of Illinois, a clerk of the court, or a judge
20 or justice thereof.

21 "Written release" means informed written consent,
22 electronic signature, or, in the context of employment, a
23 release executed by an employee as a condition of employment.

24 (Source: P.A. 95-994, eff. 10-3-08.)

1 Sec. 20. Right of action.

2 (a) Any person aggrieved by a violation of this Act shall
3 have a right of action in a State circuit court or as a
4 supplemental claim in federal district court against an
5 offending party. A prevailing party may recover for each
6 violation:

7 (1) against a private entity that negligently violates
8 a provision of this Act, liquidated damages of \$1,500
9 ~~\$1,000~~ or actual damages, whichever is greater;

10 (2) against a private entity that intentionally or
11 recklessly violates a provision of this Act, liquidated
12 damages of \$5,000 or actual damages, whichever is greater;

13 (3) reasonable attorneys' fees and costs, including
14 expert witness fees and other litigation expenses; and

15 (4) other relief, including an injunction, as the
16 State or federal court may deem appropriate.

17 (b) For purposes of subsection (b) of Section 15, a
18 private entity that, in more than one instance, collects,
19 captures, purchases, receives through trade, or otherwise
20 obtains the same biometric identifier or biometric information
21 from the same person using the same method of collection in
22 violation of subsection (b) of Section 15 has committed a
23 single violation of subsection (b) of Section 15 for which the
24 aggrieved person is entitled to, at most, one recovery under
25 this Section.

26 (c) For purposes of subsection (d) of Section 15, a

1 private entity that, in more than one instance, discloses,
2 rediscloses, or otherwise disseminates the same biometric
3 identifier or biometric information from the same person to
4 the same recipient using the same method of collection in
5 violation of subsection (d) of Section 15 has committed a
6 single violation of subsection (d) of Section 15 for which the
7 aggrieved person is entitled to, at most, one recovery under
8 this Section regardless of the number of times the private
9 entity disclosed, redisclosed, or otherwise disseminated the
10 same biometric identifier or biometric information of the same
11 person to the same recipient.

12 (Source: P.A. 95-994, eff. 10-3-08.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.".