



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5836

Introduced 5/8/2024, by Rep. Tom Weber

SYNOPSIS AS INTRODUCED:

740 ILCS 14/10
740 ILCS 14/20
740 ILCS 14/25

Amends the Biometric Information Privacy Act. Provides that a private entity that, in more than one instance, collects, captures, purchases, receives through trade, or otherwise obtains the same biometric identifier or biometric information from the same person using the same method of collection in violation of the Act has committed a single violation for which the aggrieved person is entitled to, at most, one recovery. Provides that a private entity that, in more than one instance, discloses, rediscloses, or otherwise disseminates the same biometric identifier or biometric information from the same person to the same recipient using the same method of collection in violation of the Act has committed a single violation for which the aggrieved person is entitled to, at most, one recovery regardless of the number of times the private entity disclosed, redisclosed, or otherwise disseminated the same biometric identifier or biometric information of the same person to the same recipient. Establishes that any violations of the Act by an Internet dating service shall be enforced exclusively by the Attorney General. Provides that nothing in the Act shall be construed to apply to an Internet dating service, or a provider acting on its behalf, while engaged in the collection, capture, processing, possession, retention, disclosure, redisclosure, or dissemination of biometric information or biometric identifiers for a safety purpose. Sets forth an exemption for Internet dating services. Defines terms.

LRB103 40408 LNS 72719 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Biometric Information Privacy Act is
5 amended by changing Sections 10, 20, and 25 as follows:

6 (740 ILCS 14/10)

7 Sec. 10. Definitions. In this Act:

8 "Biometric identifier" means a retina or iris scan,
9 fingerprint, voiceprint, or scan of hand or face geometry.
10 Biometric identifiers do not include writing samples, written
11 signatures, photographs, human biological samples used for
12 valid scientific testing or screening, demographic data,
13 tattoo descriptions, or physical descriptions such as height,
14 weight, hair color, or eye color. Biometric identifiers do not
15 include donated organs, tissues, or parts as defined in the
16 Illinois Anatomical Gift Act or blood or serum stored on
17 behalf of recipients or potential recipients of living or
18 cadaveric transplants and obtained or stored by a federally
19 designated organ procurement agency. Biometric identifiers do
20 not include biological materials regulated under the Genetic
21 Information Privacy Act. Biometric identifiers do not include
22 information captured from a patient in a health care setting
23 or information collected, used, or stored for health care

1 treatment, payment, or operations under the federal Health
2 Insurance Portability and Accountability Act of 1996.
3 Biometric identifiers do not include an X-ray, roentgen
4 process, computed tomography, MRI, PET scan, mammography, or
5 other image or film of the human anatomy used to diagnose,
6 prognose, or treat an illness or other medical condition or to
7 further validate scientific testing or screening.

8 "Biometric information" means any information, regardless
9 of how it is captured, converted, stored, or shared, based on
10 an individual's biometric identifier used to identify an
11 individual. Biometric information does not include information
12 derived from items or procedures excluded under the definition
13 of biometric identifiers.

14 "Confidential and sensitive information" means personal
15 information that can be used to uniquely identify an
16 individual or an individual's account or property. Examples of
17 confidential and sensitive information include, but are not
18 limited to, a genetic marker, genetic testing information, a
19 unique identifier number to locate an account or property, an
20 account number, a PIN number, a pass code, a driver's license
21 number, or a social security number.

22 "Electronic signature" means an electronic sound, symbol,
23 or process attached to or logically associated with a record
24 and executed or adopted by a person with the intent to sign the
25 record.

26 "Internet dating service" means a person or entity in the

1 business of providing dating, romantic relationship, or
2 matrimonial services principally on or through the Internet.

3 "Private entity" means any individual, partnership,
4 corporation, limited liability company, association, or other
5 group, however organized. A private entity does not include a
6 State or local government agency. A private entity does not
7 include any court of Illinois, a clerk of the court, or a judge
8 or justice thereof.

9 "Safety purpose" means the purpose of preventing,
10 detecting, investigating or responding to actual or suspected
11 criminal activity, harassment, or fraud, including spam.

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

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

16 (740 ILCS 14/20)

17 Sec. 20. Right of action.

18 (a) Any person aggrieved by a violation of this Act shall
19 have a right of action in a State circuit court or as a
20 supplemental claim in federal district court against an
21 offending party. A prevailing party may recover for each
22 violation:

23 (1) against a private entity that negligently violates
24 a provision of this Act, liquidated damages of \$1,000 or
25 actual damages, whichever is greater;

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

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

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

8 (b) For purposes of subsection (b) of Section 15, a
9 private entity that, in more than one instance, collects,
10 captures, purchases, receives through trade, or otherwise
11 obtains the same biometric identifier or biometric information
12 from the same person using the same method of collection in
13 violation of subsection (b) of Section 15 has committed a
14 single violation of subsection (b) of Section 15 for which the
15 aggrieved person is entitled to, at most, one recovery under
16 this Section.

17 (c) For purposes of subsection (d) of Section 15, a
18 private entity that, in more than one instance, discloses,
19 rediscloses, or otherwise disseminates the same biometric
20 identifier or biometric information from the same person to
21 the same recipient using the same method of collection in
22 violation of subsection (d) of Section 15 has committed a
23 single violation of subsection (d) of Section 15 for which the
24 aggrieved person is entitled to, at most, one recovery under
25 this Section regardless of the number of times the private
26 entity disclosed, redisclosed, or otherwise disseminated the

1 same biometric identifier or biometric information of the same
2 person to the same recipient.

3 (d) Any violations of this Act by an Internet dating
4 service shall be enforced exclusively by the Attorney General.

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

6 (740 ILCS 14/25)

7 Sec. 25. Construction.

8 (a) Nothing in this Act shall be construed to impact the
9 admission or discovery of biometric identifiers and biometric
10 information in any action of any kind in any court, or before
11 any tribunal, board, agency, or person.

12 (b) Nothing in this Act shall be construed to conflict
13 with the X-Ray Retention Act, the federal Health Insurance
14 Portability and Accountability Act of 1996 and the rules
15 promulgated under either Act.

16 (c) Nothing in this Act shall be deemed to apply in any
17 manner to a financial institution or an affiliate of a
18 financial institution that is subject to Title V of the
19 federal Gramm-Leach-Bliley Act of 1999 and the rules
20 promulgated thereunder.

21 (d) Nothing in this Act shall be construed to conflict
22 with the Private Detective, Private Alarm, Private Security,
23 Fingerprint Vendor, and Locksmith Act of 2004 and the rules
24 promulgated thereunder.

25 (e) Nothing in this Act shall be construed to apply to a

1 contractor, subcontractor, or agent of a State agency or local
2 unit of government when working for that State agency or local
3 unit of government.

4 (f) Nothing in this Act shall be construed to apply to an
5 Internet dating service, or a provider acting on its behalf,
6 while engaged in the collection, capture, processing,
7 possession, retention, disclosure, redisclosure, or
8 dissemination of biometric information or biometric
9 identifiers for a safety purpose. If an Internet dating
10 service, or a provider acting on its behalf, collects,
11 captures, processes, possesses, retains, discloses,
12 rediscloses, or disseminates biometric information for a
13 safety purpose, it is exempt from complying with subsections
14 (a) through (d) of Section 15. If an Internet dating service,
15 or a provider acting on its behalf, collects, captures,
16 processes, possesses, retains, discloses, rediscloses, or
17 disseminates biometric information for a different purpose, or
18 seeks to use or convert for a different purpose biometric
19 information that was collected, captured, processed,
20 possessed, retained, disclosed, redisclosed, or disseminated
21 for a safety purpose, the exemption in this subsection shall
22 not apply.

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