

# SB2409



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2409

Introduced 2/3/2016, by Sen. Terry Link

#### SYNOPSIS AS INTRODUCED:

740 ILCS 14/15

Amends the Biometric Information Privacy Act. Provides that for the purposes of crime prevention and law enforcement a private detective, private detective agency, private security contractor, or private security contractor agency may collect or capture a scan of a person's face geometry without satisfying specified notice requirements in order to compare the scan to a database of photographs provided to the entity by any federal, State, or local law enforcement agency of persons who have been arrested on a charge of a violation of State or federal law if the entity complies with specified requirements. Effective immediately.

LRB099 14106 HEP 39947 b

A BILL FOR

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 amended  
5 by changing Section 15 as follows:

6 (740 ILCS 14/15)

7 Sec. 15. Retention; collection; disclosure; destruction.

8 (a) Except as provided in subsection (b-5) of this Section,

9 a ~~A~~ private entity in possession of biometric identifiers or  
10 biometric information must develop a written policy, made  
11 available to the public, establishing a retention schedule and  
12 guidelines for permanently destroying biometric identifiers  
13 and biometric information when the initial purpose for  
14 collecting or obtaining such identifiers or information has  
15 been satisfied or within 3 years of the individual's last  
16 interaction with the private entity, whichever occurs first.  
17 Absent a valid warrant or subpoena issued by a court of  
18 competent jurisdiction, a private entity in possession of  
19 biometric identifiers or biometric information must comply  
20 with its established retention schedule and destruction  
21 guidelines.

22 (b) Except as provided in subsection (b-5) of this Section,

23 no ~~no~~ private entity may collect, capture, purchase, receive

1 through trade, or otherwise obtain a person's or a customer's  
2 biometric identifier or biometric information, unless it  
3 first:

4 (1) informs the subject or the subject's legally  
5 authorized representative in writing that a biometric  
6 identifier or biometric information is being collected or  
7 stored;

8 (2) informs the subject or the subject's legally  
9 authorized representative in writing of the specific  
10 purpose and length of term for which a biometric identifier  
11 or biometric information is being collected, stored, and  
12 used; and

13 (3) receives a written release executed by the subject  
14 of the biometric identifier or biometric information or the  
15 subject's legally authorized representative.

16 (b-5) For the purposes of crime prevention and law  
17 enforcement a private detective, private detective agency,  
18 private security contractor, or private security contractor  
19 agency licensed under the Private Detective, Private Alarm,  
20 Private Security, Fingerprint Vendor, and Locksmith Act of 2004  
21 may collect or capture a scan of a person's face geometry  
22 without satisfying the notice and release requirements in  
23 subsection (b) of this Section in order to compare the scan to  
24 a database of photographs provided to the entity by any  
25 federal, State, or local law enforcement agency of persons who  
26 have been arrested on a charge of a violation of State or

1 federal law if the entity:

2 (1) establishes and complies with a retention schedule  
3 and guidelines for permanently destroying biometric  
4 identifiers or biometric information within 30 days of the  
5 individual's last interaction with the entity, except that  
6 the entity may retain the identifier or information for  
7 more than 30 days if: (i) there is reasonable suspicion  
8 that the identifier or information contains evidence of  
9 criminal activity, or (ii) the identifier or information is  
10 relevant to an ongoing investigation or pending criminal  
11 trial; and

12 (2) adheres to the other requirements set forth in this  
13 Act.

14 (c) No private entity in possession of a biometric  
15 identifier or biometric information may sell, lease, trade, or  
16 otherwise profit from a person's or a customer's biometric  
17 identifier or biometric information.

18 (d) No private entity in possession of a biometric  
19 identifier or biometric information may disclose, redisclose,  
20 or otherwise disseminate a person's or a customer's biometric  
21 identifier or biometric information unless:

22 (1) the subject of the biometric identifier or  
23 biometric information or the subject's legally authorized  
24 representative consents to the disclosure or redisclosure;

25 (2) the disclosure or redisclosure completes a  
26 financial transaction requested or authorized by the

1 subject of the biometric identifier or the biometric  
2 information or the subject's legally authorized  
3 representative;

4 (3) the disclosure or redisclosure is required by State  
5 or federal law or municipal ordinance; or

6 (4) the disclosure is required pursuant to a valid  
7 warrant or subpoena issued by a court of competent  
8 jurisdiction.

9 (e) A private entity in possession of a biometric  
10 identifier or biometric information shall:

11 (1) store, transmit, and protect from disclosure all  
12 biometric identifiers and biometric information using the  
13 reasonable standard of care within the private entity's  
14 industry; and

15 (2) store, transmit, and protect from disclosure all  
16 biometric identifiers and biometric information in a  
17 manner that is the same as or more protective than the  
18 manner in which the private entity stores, transmits, and  
19 protects other confidential and sensitive information.

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.