



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1764

Introduced 2/17/2021, by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

740 ILCS 14/10
740 ILCS 14/35 new
740 ILCS 14/40 new
740 ILCS 14/20 rep.

Amends the Biometric Information Privacy Act. Changes the definition of "written release" to include electronic consents and releases. Provides that the Attorney General has the sole authority to enforce this Act. An action may be brought to enforce this Act only if a violation of this Act causes actual harm. Exempts an employer from the Act if the employer is using biometric identifiers and biometric information for specified purposes. Repeals a provision providing for a private right of action. Effective immediately.

LRB102 10398 LNS 15725 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 Section 10 and by adding Sections 35 and 40
6 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
17 Illinois Anatomical Gift Act or blood or serum stored on
18 behalf of recipients or potential recipients of living or
19 cadaveric transplants and obtained or stored by a federally
20 designated organ procurement agency. Biometric identifiers do
21 not include biological materials regulated under the Genetic
22 Information Privacy Act. Biometric identifiers do not include
23 information captured from a patient in a health care setting

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

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

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

23 "Private entity" means any individual, partnership,
24 corporation, limited liability company, association, or other
25 group, however organized. A private entity does not include a
26 State or local government agency. A private entity does not

1 include any court of Illinois, a clerk of the court, or a judge
2 or justice thereof.

3 "Written release" means informed written or electronic
4 consent or, in the context of employment, a written or
5 electronic release executed by an employee as a condition of
6 employment.

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

8 (740 ILCS 14/35 new)

9 Sec. 35. Violation of Act. The Attorney General has the
10 sole authority to enforce this Act. An action may be brought to
11 enforce this Act only if a violation of this Act causes actual
12 harm.

13 (740 ILCS 14/40 new)

14 Sec. 40. Exemptions. An employer is exempt under this Act
15 if the employer uses biometric identifiers and biometric
16 information for:

17 (1) keeping a record of an employee's work hours;

18 (2) security, including, but not limited to, the
19 restriction of access to certain information and locations; or

20 (3) use by the human resources department or human
21 resources employees of the employer.

22 (740 ILCS 14/20 rep.)

23 Section 10. The Biometric Information Privacy Act is

1 amended by repealing Section 20.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.