

# SB0056



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB0056

Introduced 1/29/2021, by Sen. Terri Bryant

#### SYNOPSIS AS INTRODUCED:

740 ILCS 14/20

Amends the Biometric Information Privacy Act. Provides that an action for a violation of the Act shall be commenced within one year after the cause of action accrued if the aggrieved person provides a private entity 30 days' written notice identifying the specific provisions of the Act the aggrieved person alleges have been or are being violated. Provides that if, within the 30 days, the private entity actually cures the noticed violation and provides the aggrieved person an express written statement that the violation has been cured and that no further violations shall occur, no action for individual statutory damages or class-wide statutory damages may be initiated against the private entity. Provides that a prevailing party may recover actual damages for a negligent violation of the Act (instead of "liquidated damages of \$1,000 or actual damages, whichever is greater"). Provides that a prevailing party against a private entity that willfully (instead of intentionally or recklessly) violates the Act may recover actual damages plus liquidated damages up to the amount of actual damages (instead of "liquidated damages of \$5,000 or actual damages, whichever is greater").

LRB102 04002 LNS 14018 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  
5 amended by changing Section 20 as follows:

6 (740 ILCS 14/20)

7 Sec. 20. Right of action. Any person aggrieved by a  
8 violation of this Act shall have a right of action in a State  
9 circuit court or as a supplemental claim in federal district  
10 court against an offending party, which shall be commenced  
11 within one year after the cause of action accrued if, prior to  
12 initiating any action against a private entity, the aggrieved  
13 person provides a private entity 30 days' written notice  
14 identifying the specific provisions of this Act the aggrieved  
15 person alleges have been or are being violated. If, within the  
16 30 days, the private entity actually cures the noticed  
17 violation and provides the aggrieved person an express written  
18 statement that the violation has been cured and that no  
19 further violations shall occur, no action for individual  
20 statutory damages or class-wide statutory damages may be  
21 initiated against the private entity. If a private entity  
22 continues to violate this Act in breach of the express written  
23 statement provided to the aggrieved person under this Section,

1 the aggrieved person may initiate an action against the  
2 private entity to enforce the written statement and may pursue  
3 statutory damages for each breach of the express written  
4 statement and any other violation that postdates the written  
5 statement. A prevailing party in any such action may recover  
6 ~~for each violation:~~

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

10 (2) against a private entity that willfully  
11 ~~intentionally or recklessly~~ violates a provision of this  
12 Act, actual damages plus liquidated damages up to the  
13 amount of actual damages ~~of \$5,000 or actual damages,~~  
14 ~~whichever is greater;~~

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

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

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