SYNOPSIS AS INTRODUCED:

Amends the Biometric Information Privacy Act. Changes the definitions of "biometric identifier" and "written release". Defines "biometric lock", "biometric time clock", "electronic signature", "in writing", and "security purpose". Provides that if the biometric identifier or biometric information is collected or captured for the same repeated process, the private entity is only required to inform the subject or receive consent during the initial collection. Waives certain requirements for collecting, capturing, or otherwise obtaining a person's or a customer's biometric identifier or biometric information under certain circumstances relating to security purposes. Provides that nothing in the Act shall be construed to apply to information captured by a biometric time clock or biometric lock that converts a person's biometric identifier or biometric information to a mathematical representation. Requires the Department of Labor to provide information for employers regarding the requirements of the Act on its website. Amends the Workers' Compensation Act. Provides that nothing in the Act limits, prevents, or preempts a recovery by an employee under the Biometric Information Privacy Act. Effective immediately.
AN ACT concerning civil law.

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

Section 5. The Biometric Information Privacy Act is amended by changing Sections 10, 15, and 25 and by adding Section 35 as follows:

(740 ILCS 14/10)

Sec. 10. Definitions. In this Act:

"Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Biometric identifiers do not include writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color. Biometric identifiers do not include donated organs, tissues, or parts as defined in the Illinois Anatomical Gift Act or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally designated organ procurement agency. Biometric identifiers do not include biological materials regulated under the Genetic Information Privacy Act. Biometric identifiers do not include information captured from a patient in a health care setting
or information collected, used, or stored for health care
treatment, payment, or operations under the federal Health
Insurance Portability and Accountability Act of 1996.
Biometric identifiers do not include an X-ray, roentgen
process, computed tomography, MRI, PET scan, mammography, or
other image or film of the human anatomy used to diagnose,
prognose, or treat an illness or other medical condition or to
further validate scientific testing or screening. Biometric
identifiers do not include information captured and converted
to a mathematical representation, including, but not limited
to, a numeric string or similar method that cannot be used to
recreate the biometric identifier.

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

"Biometric lock" means a device that is used to grant
access to a person and converts the person's biometric
identifier or biometric information to a mathematical
representation, including, but not limited to, a numeric
string or similar method that cannot be used to recreate the
person's biometric identifier.

"Biometric time clock" means a device that is used for
time management and converts a person's biometric identifier
or biometric information to a mathematical representation, including, but not limited to, a numeric string or similar method that cannot be used to recreate the person's biometric identifier.

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

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

"In writing" includes, but is not limited to, electronic communications or notices.

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

"Security purpose" means for the purpose of preventing or investigating retail theft, fraud, or any other misappropriation or theft of a thing of value. "Security
purpose" includes protecting property from trespass, controlling access to property, or protecting any person from harm, including stalking, violence, or harassment, and includes assisting a law enforcement investigation.

"Written release" means informed written consent or, in the context of employment, a release executed by an employee as a condition of employment. Written release includes electronic communications, and such a release or communication by electronic signature of the employee as provided under Section 5-120 of the Electronic Commerce Security Act.

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

(740 ILCS 14/15)

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

(a) A private entity in possession of biometric identifiers or biometric information must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual's last interaction with the private entity, whichever occurs first. Absent a valid warrant or subpoena issued by a court of competent jurisdiction, a private entity in possession of biometric identifiers or biometric information must comply with its established retention schedule and destruction
(b) No private entity may collect, capture, purchase, receive through trade, or otherwise obtain a person's or a customer's biometric identifier or biometric information, unless it first:

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

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

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

(b-5) If the biometric identifier or biometric information is collected or captured for the same repeated process, the private entity is only required to inform the subject or receive consent pursuant to subsection (b) during the initial collection.

(b-10) A private entity may collect, capture, or otherwise obtain a person's or a customer's biometric identifier or biometric information without satisfying the requirements of subsection (b) if:
(1) the private entity collects, captures, or otherwise obtains a person's or a customer's biometric identifier or biometric information for a security purpose;

(2) the private entity uses the biometric identifier or biometric information only for a security purpose;

(3) the private entity retains the biometric identifier or biometric information no longer than is reasonably necessary to satisfy a security purpose; and

(4) the private entity documents a process and time frame to delete any biometric information used for the purposes identified in this subsection.

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

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

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

(2) the disclosure or redisclosure completes a financial transaction requested or authorized by the subject of the biometric identifier or the biometric
information or the subject's legally authorized representative;

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

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

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

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

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

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

(740 ILCS 14/25)

Sec. 25. Construction.

(a) Nothing in this Act shall be construed to impact the admission or discovery of biometric identifiers and biometric information in any action of any kind in any court, or before any tribunal, board, agency, or person.
(b) Nothing in this Act shall be construed to conflict with the X-Ray Retention Act, the federal Health Insurance Portability and Accountability Act of 1996, and the rules promulgated under either Act.

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

(d) Nothing in this Act shall be construed to conflict with the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 and the rules promulgated thereunder or information captured by an alarm system as defined by that Act installed by a person licensed under that Act and the rules adopted thereunder.

(e) Nothing in this Act shall be construed to apply to a contractor, subcontractor, or agent of a State agency or local unit of government when working for that State agency or local unit of government.

(f) Nothing in this Act shall be construed to apply to information captured by a biometric time clock or biometric lock that converts a person's biometric identifier or biometric information to a mathematical representation, including, but not limited to, a numeric string or similar method that cannot be used to recreate the person's biometric identifier or biometric information.
Sec. 35. Department of Labor website. The Department of Labor shall provide on its website information for employers regarding the requirements of this Act.

Section 10. The Workers' Compensation Act is amended by changing Section 5 as follows:

(a) Except as provided in Section 1.2, no common law or statutory right to recover damages from the employer, his insurer, his broker, any service organization that is wholly owned by the employer, his insurer or his broker and that provides safety service, advice or recommendations for the employer or the agents or employees of any of them for injury or death sustained by any employee while engaged in the line of his duty as such employee, other than the compensation herein provided, is available to any employee who is covered by the provisions of this Act, to any one wholly or partially dependent upon him, the legal representatives of his estate, or any one otherwise entitled to recover damages for such injury.

However, in any action now pending or hereafter begun to
enforce a common law or statutory right to recover damages for
negligently causing the injury or death of any employee it is
not necessary to allege in the complaint that either the
employee or the employer or both were not governed by the
provisions of this Act or of any similar Act in force in this
or any other State. Moreover, nothing in this Act limits,
prevents, or preempts a recovery by an employee under the
Biometric Information Privacy Act.

Any illegally employed minor or his legal representatives
shall, except as hereinafter provided, have the right within 6
months after the time of injury or death, or within 6 months
after the appointment of a legal representative, whichever
shall be later, to file with the Commission a rejection of his
right to the benefits under this Act, in which case such
illegally employed minor or his legal representatives shall
have the right to pursue his or their common law or statutory
remedies to recover damages for such injury or death.

No payment of compensation under this Act shall be made to
an illegally employed minor, or his legal representatives,
unless such payment and the waiver of his right to reject the
benefits of this Act has first been approved by the Commission
or any member thereof, and if such payment and the waiver of
his right of rejection has been so approved such payment is a
bar to a subsequent rejection of the provisions of this Act.

(b) Where the injury or death for which compensation is
payable under this Act was caused under circumstances creating
a legal liability for damages on the part of some person other
than his employer to pay damages, then legal proceedings may
be taken against such other person to recover damages
notwithstanding such employer's payment of or liability to pay
compensation under this Act. In such case, however, if the
action against such other person is brought by the injured
employee or his personal representative and judgment is
obtained and paid, or settlement is made with such other
person, either with or without suit, then from the amount
received by such employee or personal representative there
shall be paid to the employer the amount of compensation paid
or to be paid by him to such employee or personal
representative including amounts paid or to be paid pursuant
to paragraph (a) of Section 8 of this Act.

Out of any reimbursement received by the employer pursuant
to this Section the employer shall pay his pro rata share of
all costs and reasonably necessary expenses in connection with
such third-party claim, action or suit and where the services
of an attorney at law of the employee or dependents have
resulted in or substantially contributed to the procurement by
suit, settlement or otherwise of the proceeds out of which the
employer is reimbursed, then, in the absence of other
agreement, the employer shall pay such attorney 25% of the
gross amount of such reimbursement.

If the injured employee or his personal representative
agrees to receive compensation from the employer or accept
from the employer any payment on account of such compensation, or to institute proceedings to recover the same, the employer may have or claim a lien upon any award, judgment or fund out of which such employee might be compensated from such third party.

In such actions brought by the employee or his personal representative, he shall forthwith notify his employer by personal service or registered mail, of such fact and of the name of the court in which the suit is brought, filing proof thereof in the action. The employer may, at any time thereafter join in the action upon his motion so that all orders of court after hearing and judgment shall be made for his protection. No release or settlement of claim for damages by reason of such injury or death, and no satisfaction of judgment in such proceedings shall be valid without the written consent of both employer and employee or his personal representative, except in the case of the employers, such consent is not required where the employer has been fully indemnified or protected by Court order.

In the event the employee or his personal representative fails to institute a proceeding against such third person at any time prior to 3 months before such action would be barred, the employer may in his own name or in the name of the employee, or his personal representative, commence a proceeding against such other person for the recovery of damages on account of such injury or death to the employee, and
out of any amount recovered the employer shall pay over to the
injured employee or his personal representatives all sums
collected from such other person by judgment or otherwise in
excess of the amount of such compensation paid or to be paid
under this Act, including amounts paid or to be paid pursuant
to paragraph (a) of Section 8 of this Act, and costs,
attorney's fees and reasonable expenses as may be incurred by
such employer in making such collection or in enforcing such
liability.
(Source: P.A. 101-6, eff. 5-17-19.)

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