

**Senate Study Bill 3085 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
TECHNOLOGY BILL BY  
CHAIRPERSON McCLINTOCK)

**A BILL FOR**

1 An Act relating to private entity requirements concerning  
2 biometric data, and providing civil penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **554J.1 Definitions.**

2 1. "Biometric data" means any information about or based on  
3 an individual's biometric identifier.

4 2. a. "Biometric identifier" means an individual's retina,  
5 iris, fingerprint, voice, hand, facial geometry, or other  
6 physical feature that is described by all of the following:

7 (1) The feature is inherently tied to a specific individual.

8 (2) The feature is considered permanent, difficult to  
9 replicate, and remains relatively stable over time.

10 (3) The feature is unique enough to identify a person with a  
11 high degree of accuracy.

12 b. "Biometric identifier" does not include any of the  
13 following:

14 (1) Writing samples, written signatures, and similar  
15 products.

16 (2) Photographs.

17 (3) Biological samples used for scientific testing or  
18 screening.

19 (4) Demographic data.

20 (5) Physical descriptions including but not limited to tattoo  
21 descriptions, height, weight, eye color, and hair color.

22 (6) Information gained from an individual's health care  
23 treatment, including but not limited to biological samples taken  
24 from an individual.

25 (7) A biometric scan, mammography, X ray, roentgen process,  
26 computed tomography, magnetic resonance imaging, positron  
27 emission tomography scan, or other image or film of the human  
28 anatomy used to diagnose, prognose, or treat an illness or  
29 medical condition, or used for scientific testing or screening.

30 3. "Department" means the department of inspections, appeals,  
31 and licensing.

32 4. "Private entity" means any nongovernmental entity or  
33 group.

34 5. "Subject" means an individual to whom particular biometric  
35 data pertains.

1     Sec. 2.   NEW SECTION.   **554J.2 Biometric data.**

2     1.   a.   A private entity in possession of biometric data shall  
3 develop a written policy to establish a schedule for how long  
4 the private entity will retain biometric data before the private  
5 entity destroys the biometric data.

6     b.   A written policy shall be available to the public.

7     c.   A private entity shall not retain biometric data for more  
8 than three years after the subject of the biometric data last  
9 interacts with the private entity or until the purposes for  
10 which the biometric data was collected have been accomplished,  
11 whichever is longer.

12    2.   A private entity shall not collect, capture, purchase, or  
13 otherwise obtain an individual's biometric data unless, prior to  
14 receiving the biometric data, the private entity does all of the  
15 following:

16    a.   Informs the subject of the biometric data, or the  
17 subject's legal representative, in writing, that the private  
18 entity intends to collect the subject's biometric data.

19    b.   Informs the subject of the biometric data, or the  
20 subject's legal representative, in writing, of the purposes and  
21 length of time for which the private entity intends to retain the  
22 biometric data.

23    3.   A private entity shall not sell, lease, trade, or  
24 otherwise profit from an individual's biometric data.

25    4.   A private entity shall store, transmit, and protect  
26 biometric data using reasonable methods that are widely accepted  
27 within the private entity's industry and are equivalent to, or  
28 more protective than, the manner in which the private entity  
29 protects passwords and other information that can be used to  
30 provide access to an individual's account or property.

31    Sec. 3.   NEW SECTION.   **554J.3 Limitations.**

32    This chapter shall not apply to an employer that uses  
33 an employee's biometric data solely within the scope of the  
34 employee's employment.

35    Sec. 4.   NEW SECTION.   **554J.4 Enforcement — penalties —**

1 **rules.**

2 1. The department shall enforce this chapter and may seek  
3 injunctive relief for a violation of this chapter.

4 2. The department shall establish electronic means for an  
5 individual to report a violation of this chapter.

6 3. If a private entity in violation of this chapter has  
7 not previously violated this chapter, the department shall send  
8 notice to the private entity informing the private entity of the  
9 violation and allowing the private entity thirty calendar days to  
10 cure the violation.

11 4. A private entity that violates this chapter is subject to  
12 the following civil penalties:

13 a. One thousand dollars for a first violation.

14 b. Five thousand dollars for a second violation, regardless  
15 of whether the private entity cured a first violation within the  
16 time allowed under subsection 3.

17 c. Ten thousand dollars for a third or subsequent violation.

18 5. Civil penalties collected under this section shall be  
19 deposited into the general fund of the state.

20 6. The department shall adopt rules pursuant to chapter 17A  
21 to implement and enforce this chapter.

22 **Sec. 5. NEW SECTION. 554J.5 Interpretation.**

23 1. This chapter shall not be construed to affect the  
24 admission or discovery of biometric data in a court action or in  
25 an administrative action under chapter 17A.

26 2. This chapter shall not be construed to affect a  
27 contractor, subcontractor, or agent of a government entity while  
28 the contractor, subcontractor, or agent is acting in the capacity  
29 for which the government entity employed or contracted the  
30 contractor, subcontractor, or agent.

31 3. This chapter shall not be construed to create a private  
32 right of action.

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**EXPLANATION**

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

1 This bill relates to private entity requirements concerning  
2 biometric data.

3 The bill defines "biometric data" as any information about or  
4 based on an individual's biometric identifier.

5 The bill defines "biometric identifier" as an individual's  
6 retina, iris, fingerprint, voice, hand, facial geometry, or  
7 other physical feature that is inherently tied to a specific  
8 individual; is considered permanent, difficult to replicate, and  
9 remains relatively stable over time; and is unique enough to  
10 identify a person with a high degree of accuracy. The bill lists  
11 several instances of what is not included within the definition  
12 of "biometric identifier".

13 The bill also defines "department", "private entity", and  
14 "subject".

15 The bill requires each private entity in possession of  
16 biometric data to develop a written policy to establish a  
17 schedule for how long the private entity will retain biometric  
18 data before the private entity destroys the biometric data. The  
19 written policy must be available to the public, and the private  
20 entity cannot retain biometric data for more than three years  
21 after the subject of the biometric data last interacts with the  
22 private entity or until the purposes for which the biometric data  
23 was collected have been accomplished, whichever is longer.

24 The bill prohibits a private entity from collecting,  
25 capturing, purchasing, or otherwise obtaining an individual's  
26 biometric data unless, prior to receiving the biometric data,  
27 the private entity informs the subject of the biometric data, or  
28 the subject's legal representative, in writing, that the private  
29 entity intends to collect the subject's biometric data, and for  
30 what purposes and length of time the private entity intends to  
31 retain the biometric data.

32 The bill prohibits a private entity from selling, leasing,  
33 trading, or otherwise profiting from an individual's biometric  
34 data.

35 The bill requires a private entity to store, transmit, and

1 protect biometric data using reasonable methods that are widely  
2 accepted within the private entity's industry and are equivalent  
3 to, or more protective than, the manner in which the private  
4 entity protects passwords and other information that can be used  
5 to provide access to an individual's account or property.

6 The bill does not apply to an employer that uses an employee's  
7 biometric data solely within the scope of the employee's  
8 employment.

9 The bill requires the department of inspections, appeals, and  
10 licensing (DIAL) to enforce the bill and seek injunctive relief  
11 for a violation of the bill.

12 The bill requires DIAL to establish electronic means for an  
13 individual to report a violation of the bill.

14 If a private entity in violation of the bill has not  
15 previously violated the bill, the bill requires DIAL to send  
16 notice to the private entity to inform the private entity of the  
17 violation and allow the private entity 30 calendar days to cure  
18 the violation.

19 A private entity that violates the bill is subject to a \$1,000  
20 civil penalty for a first violation; a \$5,000 civil penalty for  
21 a second violation, regardless of whether the private entity  
22 cured a first violation; and a \$10,000 civil penalty for a third  
23 or subsequent violation. Collected civil penalties shall be  
24 deposited into the general fund of the state.

25 The bill shall not be construed to affect the admission  
26 or discovery of biometric data in a court action or in an  
27 administrative action under Code chapter 17A; to affect a  
28 contractor, subcontractor, or agent of a government entity while  
29 the contractor, subcontractor, or agent is acting in the capacity  
30 for which the government entity employed or contracted the  
31 contractor, subcontractor, or agent; or to create a private right  
32 of action.