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**SUBSTITUTE HOUSE BILL 2363**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Innovation, Technology & Economic Development (originally sponsored by Representatives Smith, Hudgins, Young, Wylie, Kloba, and Pollet)

AN ACT Relating to providing remedies for violations of biometric data ownership rights; adding a new chapter to Title 19 RCW; creating a new section; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds and agrees that it continues to be a self-evident truth that all persons are created equal and endowed by their creator with certain inalienable rights, and that among these are life, liberty, and the pursuit of happiness. Governments are instituted to protect these rights.

(2) No person may be owned by another. We own our own selves and this is the basis for our individual freedom and authority to set the terms of our own labor, make political choices, make our own health choices, and require agreement and consent for various relationships. This concept of personal autonomy and decision making is eroded, and the basis of our democracy undermined if others may own, possess, replicate, store indefinitely, distribute, or manipulate our unique biometric identifier without our informed consent. The law must evolve to protect and safeguard our right to our own biometric identifiers because these can be used to replicate and impersonate a person through digital means and beyond their own lifetime in a way that previously has not been possible.

(3) The legislature intends to affirm this basic premise: A person should not be able to use surveillance technology to interfere with the privacy right each Washingtonian has in our own face, voice, and other unique biometric identifiers.

NEW SECTION. **Sec.**  Each person has an absolute privacy right in the person's biometric identifiers.

NEW SECTION. **Sec.**  (1) The office of the attorney general, in consultation with the office of privacy and data protection, must convene a task force to examine the issues related to infringement by biometric surveillance technology on the biometric identifiers privacy rights guaranteed in section 2 of this act, including:

(a) The use of affirmative consent for collection of biometric data;

(b) Requiring clear purposes for which biometric data is collected and limiting collection to those purposes;

(c) The ability of a consumer to withdraw consent and obtain deletion of all biometric data of the consumer; and

(d) Imposing on entities that collect biometric data the duties to protect, secure, and prevent misuse of biometric data.

(2) The majority of the task force members must be representatives of organizations that advocate for civil liberties, consumer rights, and privacy protections. The task force must also include a data ethics expert and a representative from a statewide organization that represents law enforcement agencies.

(3) By December 1, 2021, the attorney general must submit to the relevant committees of the legislature a report that summarizes the findings of the task force. The report must include for consideration and possible adoption by the legislature recommendations regarding legal remedies to provide justice for those whose biometric privacy rights are violated.

(4) The definitions in section 4 of this act apply throughout this section unless the context clearly requires otherwise.

(5) This section expires June 30, 2022.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Biometric identifier" means any information, regardless of how it is captured, converted, stored, or shared, based on biological, physiological, or behavioral traits that are uniquely attributable to a single individual.

(2) "Biometric surveillance technology" means any technology or process capable of collecting, capturing, or replicating a biometric identifier.

NEW SECTION. **Sec.**  Sections 1, 2, and 4 of this act constitute a new chapter in Title 19 RCW.

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