
HOUSE BILL 1717

State of Washington

65th Legislature

2017 Regular Session

By Representatives Smith, Morris, Harmsworth, DeBolt, Hudgins, Van Werven, Santos, and Stanford

Read first time 01/26/17. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to state agency collection, use, and retention of
2 biometric identifiers; and adding a new chapter to Title 40 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the collection
5 and use of personal information has been a practice of virtually all
6 state agencies and programs. Advances in technology have given rise
7 to new forms of data, such as email and internet protocol (IP)
8 addresses, which can be easily collected and stored along with
9 traditional types of data such as names and dates of birth. One new
10 form of personally identifiable information is biometric identifiers.
11 The unique nature of this new type of personal data calls for
12 additional guidance regarding its use by state agencies.

13 NEW SECTION. **Sec. 2.** (1) An agency may not collect, capture,
14 purchase, or otherwise obtain a biometric identifier without first
15 providing notice and obtaining the individual's consent, as follows:

16 (a) The notice provided must clearly specify the purpose and use
17 of the biometric identifier; and

18 (b) The consent obtained must be specific to the terms of the
19 notice, and must be recorded and maintained by the agency for the
20 duration of the retention of the biometric identifier.

1 (2) Any biometric identifier obtained by an agency:
2 (a) May not be sold;
3 (b) May only be used consistent with the terms of the notice and
4 consent obtained under subsection (1) of this section; and
5 (c) May be shared, including with other state agencies or local
6 governments, only:
7 (i) As needed to execute the purposes of the collection,
8 consistent with the notice and consent obtained under subsection (1)
9 of this section; or
10 (ii) If such sharing is specified within the original consent.
11 (3) An agency that collects, purchases, or otherwise obtains
12 biometric identifiers must:
13 (a) Establish security policies that ensure the integrity and
14 appropriate confidentiality of the biometric identifiers;
15 (b) Address biometric identifiers in the agency's privacy
16 policies;
17 (c) Only retain biometric identifiers necessary to fulfill the
18 original purpose and use, as specified in the notice and consent
19 obtained under subsection (1) of this section;
20 (d) Set record retention schedules tailored to the original
21 purpose of the collection of biometric identifiers; and
22 (e) Otherwise minimize the review and retention of the biometric
23 identifiers, consistent with state record retention requirements.
24 (4) The use and storage of biometric identifiers obtained by an
25 agency must comply with all other applicable state and federal laws
26 and regulations, including the health insurance portability and
27 accountability act (HIPAA), the family educational rights and privacy
28 act (FERPA), regulations regarding data breach notifications and
29 individual privacy protections, and any policies or standards
30 published by the office of the chief information officer.
31 (5) Biometric identifiers used or retained by an agency may not
32 be disclosed under the public records act, chapter 42.56 RCW.
33 (6) Agency policies, regulations, guidance, and retention
34 schedules regarding biometric identifiers must be reviewed annually
35 to incorporate any new technology, as appropriate, and respond to
36 citizen complaints.
37 (7) The following definitions apply for purposes of this section:
38 (a) "Agency" means every state office, department, division,
39 bureau, board, commission, or other state agency, except that it does
40 not include a general authority Washington law enforcement agency.

1 (b) "Biometric identifier" means any information, regardless of
2 how it is captured, converted, stored, or shared, based on an
3 individual's retina or iris scan, fingerprint, voiceprint, or scan of
4 hand or face geometry, except when such information is derived from:

5 (i) Writing samples, written signatures, photographs, human
6 biological samples used for valid scientific testing or screening,
7 demographic data, tattoo descriptions, or physical descriptions such
8 as height, weight, hair color, or eye color;

9 (ii) Donated organ tissues or parts, or blood or serum stored on
10 behalf of recipients or potential recipients of living or cadaveric
11 transplants and obtained or stored by a federally designated organ
12 procurement agency;

13 (iii) Information captured from a patient in a health care
14 setting or information collected, used, or stored for health care
15 treatment, payment, or operations under the federal health insurance
16 portability and accountability act of 1996; or

17 (iv) X-ray, roentgen process, computed tomography, magnetic
18 resonance imaging (MRI), positron emission tomography (PET) scan,
19 mammography, or other image or film of the human anatomy used to
20 diagnose, prognose, or treat an illness or other medical condition or
21 to further validate scientific testing or screening.

22 (c) "General authority Washington law enforcement agency" has the
23 definition given in RCW 10.93.020.

24 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a
25 new chapter in Title 40 RCW.

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