

1 A bill to be entitled
 2 An act relating to biometric information privacy;
 3 creating s. 501.172, F.S.; providing a short title;
 4 providing definitions; establishing requirements and
 5 restrictions on private entities as to the use,
 6 collection, and maintenance of biometric identifiers
 7 and biometric information; providing for construction;
 8 providing an effective date.

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 10 Be It Enacted by the Legislature of the State of Florida:

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 12 Section 1. Section 501.172, Florida Statutes, is created
 13 to read:

14 501.172 Biometric information privacy.—

15 (1) SHORT TITLE.—This section may be cited as the "Florida
 16 Biometric Information Privacy Act."

17 (2) DEFINITIONS.—As used in this section, the term:

18 (a) "Biometric identifier" means a retina or iris scan,
 19 fingerprint, voice print, or scan of hand or face geometry. The
 20 term does not include any of the following:

21 1. Writing samples, written signatures, photographs, human
 22 biological samples used for valid scientific testing or
 23 screening, demographic data, tattoo descriptions, or physical
 24 descriptions such as height, weight, hair color, or eye color.

25 2. Donated organs, tissues, parts, or blood or serum that

26 is stored on behalf of recipients, or potential recipients, of
27 living or cadaveric transplants and that are obtained by or
28 stored by a federally designated organ procurement organization.

29 3. Information captured from a patient in a health care
30 setting or information collected, used, or stored for health
31 care treatment, payment, or operations under the federal Health
32 Insurance Portability and Accountability Act of 1996.

33 4. An X-ray, roentgen process, computed tomography, MRI,
34 PET scan, mammography, or other image or film of the human
35 anatomy used to diagnose, prognose, or treat an illness or other
36 medical condition or to further validate scientific testing or
37 screening.

38 (b) "Biometric information" means any information,
39 regardless of the manner in which it is captured, converted,
40 stored, or shared, based on an individual's biometric identifier
41 used to identify an individual. The term does not include
42 information derived from items or procedures excluded from the
43 definition of biometric identifiers as specified in paragraph
44 (a).

45 (c) "Confidential and sensitive information" means
46 personal information that can be used to uniquely identify an
47 individual or an individual's account or property which
48 includes, but is not limited to, a genetic marker, genetic
49 testing information, a unique identifier number to locate an
50 account or property, an account number, a PIN number, a pass

51 code, a driver license number, a Florida identification card
52 number, or a social security number.

53 (d) "Private entity" means any individual, partnership,
54 corporation, limited liability company, association, or other
55 group. The term does not include a state or local governmental
56 agency or any state court, a clerk of the court, or a judge or
57 justice thereof.

58 (e) "Written release" means informed written consent or,
59 in the context of employment, a release executed by an employee
60 as a condition of employment.

61 (3) REQUIREMENTS OF PRIVATE ENTITIES.—

62 (a) A private entity that is in possession of biometric
63 identifiers or biometric information shall develop a publicly
64 available written policy establishing a retention schedule and
65 guidelines for permanently destroying biometric identifiers and
66 biometric information upon satisfaction of the initial purpose
67 for collecting or obtaining such identifiers or information or
68 within 3 years after the individual's last interaction with the
69 private entity, whichever occurs first. Absent a valid warrant
70 or subpoena issued by a court of competent jurisdiction, a
71 private entity in possession of biometric identifiers or
72 biometric information must comply with its established retention
73 schedule and destruction guidelines.

74 (b) A private entity may not collect, capture, purchase,
75 receive through trade, or otherwise obtain a person's or a

76 customer's biometric identifier or biometric information unless
77 the private entity:

78 1. Informs the subject or the subject's legally authorized
79 representative in writing that a biometric identifier or
80 biometric information is being collected or stored;

81 2. Informs the subject or the subject's legally authorized
82 representative in writing of the specific purpose and length of
83 term for which a biometric identifier or biometric information
84 is being collected, stored, and used; and

85 3. Receives a written release executed by the subject of
86 the biometric identifier or biometric information or the
87 subject's legally authorized representative.

88 (c) A private entity in possession of a biometric
89 identifier or biometric information may not sell, lease, trade,
90 or otherwise profit from a person's or a customer's biometric
91 identifier or biometric information without the written or
92 electronic consent of the subject of the biometric identifier or
93 biometric information or the subject's legally authorized
94 representative.

95 (d) A private entity in possession of a biometric
96 identifier or biometric information may not disclose or
97 otherwise disseminate a person's or a customer's biometric
98 identifier or biometric information unless:

99 1. The subject of the biometric identifier or biometric
100 information or the subject's legally authorized representative

101 consents to the disclosure;

102 2. The disclosure completes a financial transaction
 103 requested or authorized by the subject of the biometric
 104 identifier or the biometric information or the subject's legally
 105 authorized representative;

106 3. The disclosure is required by state or federal law or
 107 local ordinance; or

108 4. The disclosure is required pursuant to a valid warrant
 109 or subpoena issued by a court of competent jurisdiction.

110 (e) A private entity in possession of a biometric
 111 identifier or biometric information shall store, transmit, and
 112 protect from disclosure all biometric identifiers and biometric
 113 information:

114 1. Using the reasonable standard of care within the
 115 private entity's industry; and

116 2. In a manner that is the same as or more protective than
 117 the manner in which the private entity stores, transmits, and
 118 protects other confidential and sensitive information.

119 (4) CONSTRUCTION.—This section may not be construed to:

120 (a) Impact the admission or discovery of biometric
 121 identifiers and biometric information in any action of any kind
 122 in any court, or before any tribunal, board, agency, or person;

123 (b) Conflict with the federal Health Insurance Portability
 124 and Accountability Act of 1996 and any regulations promulgated
 125 pursuant to that act;

CS/HB 1153

2019

126 (c) Apply to a contractor, subcontractor, or agent of a
127 state agency or local unit of government when working for that
128 state agency or local unit of government; or

129 (d) Apply to a financial institution or an affiliate of a
130 financial institution that is subject to Title V of the federal
131 Gramm-Leach-Bliley Act of 1999 and any regulations promulgated
132 pursuant to that act.

133 Section 2. This act shall take effect October 1, 2019.