

HB 499 - AS AMENDED BY THE HOUSE

7Apr2021... 0247h

2021 SESSION

21-0023

04/11

HOUSE BILL **499**

AN ACT relative to the use of face recognition technology.

SPONSORS: Rep. McGuire, Merr. 29; Rep. M. Smith, Straf. 6; Rep. Berch, Ches. 1; Rep. Hopper, Hills. 2; Rep. T. Lekas, Hills. 37; Rep. Merchant, Sull. 4; Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill permits the state to use face recognition technology if it has a warrant supported by probable cause.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the use of face recognition technology.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Breaches of the Peace; Face Recognition Technology Prohibited. Amend
2 RSA 644 by inserting after section 22 the following new subdivision:

3 Face Recognition Technology Prohibited

4 644:23 Definitions. In this subdivision:

5 I. "Face recognition technology" means an automated or semi-automated process that assists
6 in identifying or tracking an individual or capturing information about an individual, based on the
7 physical characteristics of an individual's face. It does not include the process by which an
8 individual visually identifies another individual by viewing a representation of the individual on a
9 computer, video recording, photograph or other media.

10 II. "State" means any department, agency, bureau, or administrative unit of the state of
11 New Hampshire, including any city, town, county, school district, or municipal entity therein.

12 644:24 Use of Face Recognition Technology; Requirements. The state shall only use face
13 recognition technology if it has a search warrant supported by probable cause and signed by a
14 neutral and detached magistrate.

15 644:25 Evidence Inadmissible.

16 I. Any data or information collected or derived from the state's own use of face recognition
17 technology in violation of this subdivision shall be inadmissible in any trial, hearing, or other
18 proceeding in or before any court or regulatory agency in the state of New Hampshire.

19 II. Any evidence derived from data or information collected from any use of face recognition
20 technology in violation of this subdivision shall be inadmissible in any trial, hearing, or other
21 proceeding in or before any court or regulatory agency in the state of New Hampshire, unless
22 sufficiently attenuated from the original violation, including but not limited, to an affirmative
23 showing that no state official had requested, facilitated, or otherwise caused the use of face
24 recognition technology by an entity other than the state as defined above.

25 2 Drivers' Licenses; Use of Facial Recognition Technology Prohibited. RSA 263:40-b is repealed
26 and reenacted to read as follows:

27 263:40-b Use of Face Recognition Technology Prohibited. The department shall not allow access
28 to any of its digital representations of faces by any face recognition technology nor shall the
29 department use face recognition technology. No state agency, other than the department, shall
30 create or maintain a searchable database of face images.

31 3 Effective Date. This act shall take effect 60 days after its passage.