08Jan2014... 2240h
05/15/14   1836s
05/15/14   1877s
4Jun2014... 1954CofC
4Jun2014... 2022EBA

2014 SESSION

13-0708
05/10

HOUSE BILL   *312*

AN ACT   restricting the collection of biometric data by state agencies, municipalities, and political subdivisions, and requiring the election of benefits by certain members of the judicial retirement plan or their beneficiaries.

SPONSORS: Rep. Kurk, Hills 2; Rep. John Hunt, Ches 11; Rep. Winters, Hills 18

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill restricts the collection of biometric data by state and local government agencies and provides a private right of action for the misuse or unlawful collection of biometric data. This bill also requires certain eligible judges or their beneficiary under the judicial retirement plan to give notice of their election to receive benefits under the former judicial retirement statutes or retirement benefits paid pursuant to RSA 100-C.

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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        Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT   restricting the collection of biometric data by state agencies, municipalities, and political subdivisions, and requiring the election of benefits by certain members of the judicial retirement plan or their beneficiaries.

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

1   162:1   New Chapter; Regulation of Biometric Information.   Amend RSA by inserting after

2   chapter 359-L the following new chapter:

3   CHAPTER 359-M

4   REGULATION OF BIOMETRIC INFORMATION

5   359-M:1 Definitions. In this chapter:

6   I. "Biometric data" includes, but is not limited to, the following:

7   (a)   Fingerprints, palm prints, and other methods for measuring or recording ridge

8   pattern or fingertip characteristics.

9   (b) Facial feature pattern characteristics.

10   (c) Behavior characteristics of a handwritten signature, such as shape, speed, pressure,

11   pen angle, or sequence.

12   (d) Voice data used for comparing live speech with a previously-created speech model of

13   a person's voice.

14   (e) Iris recognition data containing color or texture patterns or codes.

15   (f) Keystroke dynamics, measuring pressure applied to key pads.

16   (g) Hand geometry, measuring hand characteristics, including the shape and length of

17   fingers, in 3 dimensions.

18   (h) Retinal scans, reading through the pupil to measure blood vessels lining the retina.

19   (i) DNA/RNA.

20   II. "Government agency" includes any employee, agent, elected official or entity of the state,

21   a municipality, or any other political subdivision of the state of New Hampshire.

22   359-M:2 Collection of Biometric Data Prohibited.

23   I. No government agency shall:

24   (a)   Issue an identification card, other than an employee, vendor, or contractor

25   identification or access card, device or system, or use an identification device or system, that requires

1   the collection or retention of an individual's biometric data.

2   (b) Require an individual to disclose or provide biometric data as a condition of doing

3   business with, engaging in any business activity or relationship with, or obtaining services from,

4   that agency.

5   (c) Obtain, retain, or provide any individual's biometric data except as set forth in this

6   chapter.

7   II. Any biometric data collected for an employee, vendor, or contractor identification or

8   access card shall be destroyed when the individual terminates his or her relationship with the

9   agency. No biometric data collected under this section shall be subject to a subpoena.

10   III. Nothing in paragraphs I and II shall prohibit the disclosure, collection, or retention of

11   biometric data from applicants for and persons employed in positions with state, county, or local

12   public safety agencies as part of the employment screening process, or for obtaining required security

13   clearances, or in connection with investigations of internal misconduct or crimes and offenses.

14   359-M:3 Exemptions. The prohibition in RSA 359-M:2 shall not apply to biometric data

15   collection practices implemented pursuant to statute or practice prior to the effective date of this

16   section, provided that the government agency shall not subsequently expand or modify the type of

17   data collected or the purpose for which it is collected without legislative approval. Legislative

18   approval shall not be required for an airport to expand or modify its biometric collection and use

19   practices if identified in the airport's federally-mandated airport security program and approved by

20   the U.S. Transportation Security Administration. Nothing in this chapter shall limit the collection of

21   biometric evidence by law enforcement agencies at crime scenes or its examination and analysis by

22   forensic laboratories. The admissibility at trials of biometric evidence and expert opinion based on

23   such evidence shall be determined by the presiding judge within the parameters and limits specified

24   in the rules of evidence.

25   359-M:4 Violation; Civil Action. Any individual aggrieved by a violation of this chapter,

26   including the loss or misuse of biometric data lawfully collected under RSA 359-M:2 or 359-M:3, may

27   bring a civil action against a government agency under this section to obtain the following:

28   I. An injunction of the agency practice;

29   II. Actual damages or $2,500 for each violation, whichever is greater; and

30   III. Reasonable attorney's fees and court costs.

31   162:2 New Section; Judicial Retirement Plan; Notice of Election. Amend RSA 100-C by

32   inserting after section 17 the following new section:

33   100-C:18 Notice of Election. Each full-time judge who was appointed prior to January 1, 2005,

34   or an eligible beneficiary of such judge who retired after attaining age 65, shall notify the plan in

35   writing no later than 90 days after the plan mails to each affected person a statement of the method

36   by which retirement benefits are calculated under RSA 100-C as well as under the provisions of the

1   former judicial retirement statutes, RSA 490:2, RSA 491:2, RSA 502-A:6-a, or RSA 547:2-a, as to

2   whether the member or beneficiary intends to claim retirement benefits pursuant to one of the

3   former judicial retirement statutes instead of the retirement benefits paid pursuant to RSA 100-C.

4   Such election, once made, shall be irrevocable. If an election is not made within 90 days after the

5   plan mails such statement, the member or beneficiary shall only receive benefits under the

6   provisions of RSA 100-C. In the event that a member or beneficiary elects to claim retirement

7   benefits pursuant to one of the former judicial retirement statutes, he or she shall not be entitled to

8   reimbursement for any contributions made pursuant to RSA 100-C:13 or RSA 100-C:14.

9   162:3 Contingent Renumbering. If SB 303 of the 2014 regular legislative session becomes law,

10   RSA 359-M:1 and all references to RSA 359-M as inserted by section 1 of this act shall be

11   renumbered as RSA 359-N.

12   162:4 Effective Date.

13   I. Section 1 of this act shall take effect July 1, 2014.

14   II. The remainder of this act shall take effect upon its passage.

15   Approved: July 11, 2014

16   Effective Date: I. Section 1 shall take effect July 1, 2014.

17   II. Remainder shall take effect July 11, 2014.