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# A BILL FOR AN ACT

RELATING TO VIOLATION OF PRIVACY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the unregulated and  
2 unfettered use of facial recognition poses unique and  
3 significant implications with respect to the civil rights and  
4 liberties of residents of and visitors to Hawai'i. Facial  
5 recognition technology has already reportedly been used  
6 elsewhere in concerning ways that infringe on our collective  
7 civil rights, such as making false arrests or suppressing free  
8 speech. While there are limited circumstances in which the use  
9 of facial recognition may be necessary, its use must be properly  
10 balanced with the constitutional right to privacy, the immediate  
11 destruction of obtained data, and prohibitions on sharing that  
12 data.

13           The purpose of this Act is to establish limits on the  
14 government's use of facial recognition systems, with certain  
15 specified exceptions.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 RESTRAINTS ON THE USE OF FACIAL RECOGNITION TECHNOLOGY

6 § -1 Purpose and scope. The purpose of this chapter is  
7 to place limits on the government's use of facial recognition  
8 systems, with certain specified exceptions.

9 § -2 Applicability. This chapter shall not apply to a  
10 government official's personal use of a privately owned facial  
11 recognition system when the government official is acting in an  
12 unofficial capacity.

13 § -3 Definitions. As used in this chapter:

14 "Facial recognition" means an automated or semiautomated  
15 process that:

- 16 (1) Assists in identifying or verifying an individual or  
17 capturing information about an individual based on the  
18 physical characteristics of the individual's face; or  
19 (2) Uses characteristics of an individual's face, head, or  
20 body to infer emotion, associations, activities, or  
21 the location of the individual.



1 "Facial recognition system" means any computer software or  
2 application that performs facial recognition.

3 "Government" means the State, or any of its political  
4 subdivisions, departments, agencies, and instrumentalities,  
5 corporate or otherwise.

6 "Government official" means any person or entity acting on  
7 behalf of the State, or any of its political subdivisions,  
8 including any officer, employee, agent, contractor,  
9 subcontractor, or vendor.

10 § -4 Restriction on government use of facial  
11 recognition. (a) Except as provided in subsection (b), it  
12 shall be unlawful for the government or any government official  
13 to obtain, retain, share, access, or use:

- 14 (1) Any facial recognition system; or  
15 (2) Any information obtained from a facial recognition  
16 system.

17 (b) A facial recognition system or information obtained  
18 from a facial recognition system shall only be obtained,  
19 retained, shared, accessed, or used:

- 20 (1) By law enforcement agency personnel trained in the use  
21 of a facial recognition system:



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- 1 (A) To compare surveillance photographs or videos to  
2 arrest booking photographs from the Hawaii  
3 criminal justice data center; or
- 4 (B) In a photo lineup conducted pursuant to section  
5 801K-2;
- 6 (2) By driver's license and civil identification card  
7 issuing agencies to satisfy the requirements of the  
8 federal REAL ID Act of 2005, Public Law 109-13; or
- 9 (3) By the government or a government official:
- 10 (A) Upon a determination by the director of health  
11 that there is a potential for a serious outbreak  
12 of a communicable or dangerous disease or there  
13 is the likelihood of extensive injury or death;
- 14 (B) At state airports;
- 15 (C) In conjunction with thermal scanning technology;  
16 and
- 17 (D) To identify an individual when there is reason to  
18 believe, based on thermal scanning technology,  
19 that the individual could be infected with a  
20 communicable or dangerous disease;



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1 provided that information obtained from a facial recognition  
2 system shall be destroyed within sixty minutes after it is  
3 obtained.

4 (c) Information obtained from a facial recognition system  
5 shall not constitute probable cause for an arrest."

6 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



JAN 21 2022



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**Report Title:**

Facial Recognition; Technology; Limitations; Government

**Description:**

Establishes limits on the government's use of facial recognition systems, with certain specified exceptions.

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