

---

**SUBSTITUTE HOUSE BILL 2363**

---

**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Innovation, Technology & Economic Development (originally sponsored by Representatives Smith, Hudgins, Young, Wylie, Kloba, and Pollet)

1       AN ACT Relating to providing remedies for violations of biometric  
2 data ownership rights; adding a new chapter to Title 19 RCW; creating  
3 a new section; and providing an expiration date.

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

5       NEW SECTION.   **Sec. 1.**   (1) The legislature finds and agrees that  
6 it continues to be a self-evident truth that all persons are created  
7 equal and endowed by their creator with certain inalienable rights,  
8 and that among these are life, liberty, and the pursuit of happiness.  
9 Governments are instituted to protect these rights.

10       (2) No person may be owned by another. We own our own selves and  
11 this is the basis for our individual freedom and authority to set the  
12 terms of our own labor, make political choices, make our own health  
13 choices, and require agreement and consent for various relationships.  
14 This concept of personal autonomy and decision making is eroded, and  
15 the basis of our democracy undermined if others may own, possess,  
16 replicate, store indefinitely, distribute, or manipulate our unique  
17 biometric identifier without our informed consent. The law must  
18 evolve to protect and safeguard our right to our own biometric  
19 identifiers because these can be used to replicate and impersonate a  
20 person through digital means and beyond their own lifetime in a way  
21 that previously has not been possible.

1 (3) The legislature intends to affirm this basic premise: A  
2 person should not be able to use surveillance technology to interfere  
3 with the privacy right each Washingtonian has in our own face, voice,  
4 and other unique biometric identifiers.

5 NEW SECTION. **Sec. 2.** Each person has an absolute privacy right  
6 in the person's biometric identifiers.

7 NEW SECTION. **Sec. 3.** (1) The office of the attorney general, in  
8 consultation with the office of privacy and data protection, must  
9 convene a task force to examine the issues related to infringement by  
10 biometric surveillance technology on the biometric identifiers  
11 privacy rights guaranteed in section 2 of this act, including:

12 (a) The use of affirmative consent for collection of biometric  
13 data;

14 (b) Requiring clear purposes for which biometric data is  
15 collected and limiting collection to those purposes;

16 (c) The ability of a consumer to withdraw consent and obtain  
17 deletion of all biometric data of the consumer; and

18 (d) Imposing on entities that collect biometric data the duties  
19 to protect, secure, and prevent misuse of biometric data.

20 (2) The majority of the task force members must be  
21 representatives of organizations that advocate for civil liberties,  
22 consumer rights, and privacy protections. The task force must also  
23 include a data ethics expert and a representative from a statewide  
24 organization that represents law enforcement agencies.

25 (3) By December 1, 2021, the attorney general must submit to the  
26 relevant committees of the legislature a report that summarizes the  
27 findings of the task force. The report must include for consideration  
28 and possible adoption by the legislature recommendations regarding  
29 legal remedies to provide justice for those whose biometric privacy  
30 rights are violated.

31 (4) The definitions in section 4 of this act apply throughout  
32 this section unless the context clearly requires otherwise.

33 (5) This section expires June 30, 2022.

34 NEW SECTION. **Sec. 4.** The definitions in this section apply  
35 throughout this chapter unless the context clearly requires  
36 otherwise.

1 (1) "Biometric identifier" means any information, regardless of  
2 how it is captured, converted, stored, or shared, based on  
3 biological, physiological, or behavioral traits that are uniquely  
4 attributable to a single individual.

5 (2) "Biometric surveillance technology" means any technology or  
6 process capable of collecting, capturing, or replicating a biometric  
7 identifier.

8 NEW SECTION. **Sec. 5.** Sections 1, 2, and 4 of this act  
9 constitute a new chapter in Title 19 RCW.

--- END ---