

# STATE OF NEW YORK

5140

2019-2020 Regular Sessions

## IN SENATE

April 11, 2019

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the use of biometric identifying technology

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The education law is amended by adding a new section 2-e to  
2 read as follows:

3 § 2-e. Use of biometric identifying technology. 1. As used in this  
4 section:

5 a. "biometric identifying technology" shall mean technology that  
6 utilizes a student's biometric record including but not limited to,  
7 technology that provides automated facial recognition and object recog-  
8 niton of live and recorded surveillance video.

9 b. "biometric record" shall mean a record of one or more measurable  
10 biological or behavioral characteristics that can be used for automated  
11 recognition of an individual. Examples include fingerprints; retina and  
12 iris patterns; voiceprints; DNA sequence; facial characteristics; and  
13 handwriting.

14 c. "facial recognition" shall mean a biometric application or biome-  
15 tric identifying technology capable of uniquely identifying or verifying  
16 a person by comparing and analyzing patterns based on the person's  
17 facial contours.

18 2. On or before the first of December two thousand twenty, the commis-  
19 sioner, in consultation with the department's chief privacy officer,  
20 shall study and make recommendations to the governor, temporary presi-  
21 dent of the senate and speaker of the assembly on whether biometric  
22 identifying technology, including but not limited to facial recognition,  
23 is appropriate for use in public and nonpublic elementary and secondary  
24 schools, including charter schools, and if so, what restrictions and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 guidelines should be enacted to protect individual privacy interests.  
2 The commissioner shall consider and evaluate:

3 a. the privacy implications of collecting, storing, and sharing biome-  
4 tric data of students, teachers, school personnel and the general public  
5 entering a school or school grounds;

6 b. the reliability of the technology and whether reliability differs  
7 for different classifications of individuals based on race, national  
8 origin, gender, age or other factors;

9 c. whether, and under what circumstances, such technology may be used  
10 for school security and the effectiveness of such technology to protect  
11 students and school personnel;

12 d. whether, and under what circumstances and in what manner, informa-  
13 tion collected may be used by schools and shared with students, parents  
14 or guardians, outside agencies including law enforcement agencies, indi-  
15 viduals, litigants, and the courts;

16 e. the risk of an unauthorized breach of databanked biometric data and  
17 appropriate consequences therefor;

18 f. expected maintenance costs resulting from the storage and use of  
19 facial recognition images and other biometric records, including the  
20 cost of appropriately securing sensitive data, performing required  
21 updates to protect against an unauthorized breach of data, and potential  
22 costs associated with an unauthorized breach of data;

23 g. analysis of other schools and organizations, if any, that have  
24 implemented facial recognition and other biometric record software  
25 programs;

26 h. whether, and in what manner, the use of such technology should be  
27 disclosed by signs and the like in such schools, as well as communicated  
28 to parents, students and district residents; and

29 i. legislation that may be needed to ensure, among other things, that  
30 records of the use of such technology are kept, privacy interests of  
31 data subjects are protected, and that data breaches are avoided.

32 3. The commissioner shall, via scheduled public hearings and other  
33 outreach methods, seek feedback from teachers, school administrators,  
34 parents, individuals with expertise in school safety and security, and  
35 individuals with expertise in data privacy issues and student privacy  
36 issues prior to making such recommendations.

37 4. Commencing with the two thousand nineteen--two thousand twenty  
38 school year, public and nonpublic elementary and secondary schools,  
39 including charter schools, shall be prohibited from purchasing and  
40 utilizing biometric identifying technology for any purpose, including  
41 school security, absent specific authority in state legislation.

42 § 2. This act shall take effect immediately.