

STATE OF NEW YORK

768

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to the use of facial
recognition and biometric information for determining probable cause

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

1 Section 1. The executive law is amended by adding a new section 837-w
2 to read as follows:

3 § 837-w. Use of biometric identifying technology. 1. As used in this
4 section:

5 (a) "Biometric identifying technology" shall mean any computer soft-
6 ware, algorithm, product, or application that collects or electronically
7 analyzes biometric information for the purposes of identifying an indi-
8 vidual, including but not limited to facial recognition.

9 (b) "Biometric information" shall mean any measurable physical or
10 behavioral characteristics that are attributable to an individual
11 person, including but not limited to facial characteristics, fingerprint
12 characteristics, hand characteristics, eye characteristics, vocal char-
13 acteristics, and any other physical characteristics that can be used to
14 identify a person including, but not limited to: fingerprints; hand-
15 prints; retina and iris patterns; DNA sequence; voice; gait; and facial
16 geometry.

17 (c) "Facial recognition" shall mean a biometric application or biome-
18 tric identifying technology capable of uniquely identifying or verifying
19 a person by comparing and analyzing patterns based on the person's
20 facial contours.

21 2. Biometric identifying technology shall not be the sole factor in
22 determining the existence of probable cause to place in custody or
23 arrest an individual.

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

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1 3. Not later than January first, two thousand twenty-three, each
2 municipal police department, sheriff's office, and the division of state
3 police shall adopt a written policy that prohibits the stopping,
4 detention or search of any person when such action is solely motivated
5 by biometric identifying technology.

6 4. If a municipal police department, sheriff's office, or the division
7 of state police fails to comply with the provisions of this section, the
8 division of criminal justice services shall order an appropriate penalty
9 in the form of the withholding of state funds from such municipal police
10 department, sheriff's office or the division of state police.

11 § 2. This act shall take effect immediately.