

# STATE OF NEW YORK

519

2023-2024 Regular Sessions

## IN ASSEMBLY

January 9, 2023

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 Assembly, do enact as follows:

1 Section 1. Section 837-w of the executive law, as added by chapter 219  
2 of the laws of 2022, is renumbered section 837-x and a new section 837-y  
3 is added to read as follows:

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

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

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

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

22 2. Biometric identifying technology shall not be the sole factor in  
23 determining the existence of probable cause to place in custody or  
24 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-five, each munic-  
2 ipal 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.