

# STATE OF NEW YORK

6031--A

2025-2026 Regular Sessions

## IN ASSEMBLY

February 25, 2025

Introduced by M. of A. SIMON, VANEL, REYES, SAYEGH, COOK, CRUZ, HYNDMAN, GLICK, SMULLEN, McDONOUGH, BLANKENBUSH, LUPARDO, EACHUS, KELLES, GALLAHAN, GANDOLFO, BRABENEC -- Multi-Sponsored by -- M. of A. ANGELINO -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to biometric identifier privacy

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

1 Section 1. The general business law is amended by adding a new article  
2 32-A to read as follows:

3 ARTICLE 32-A

4 BIOMETRIC IDENTIFIER PRIVACY ACT

5 Section 676. Short title.

6 676-a. Definitions.

7 676-b. Retention; collection; disclosure; destruction.

8 676-c. Regulatory authority and enforcement.

9 676-d. Construction with other laws.

10 676-e. Severability.

11 § 676. Short title. This article shall be known and may be cited as  
12 the "biometric identifier privacy act".

13 § 676-a. Definitions. As used in this article: 1. "Biometric identifier"  
14 means the data generated by measurements or other analysis of an  
15 individual's biological or behavioral characteristics such as a face-  
16 print, fingerprint, voiceprint, gait, retina or iris image, DNA, or any  
17 other biological characteristic that can be used for automated recogni-  
18 tion of a known or unknown individual. "Biometric identifier" does not  
19 include:

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

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1 (a) a writing sample of written signature;

2 (b) a photograph or video, except "biometric identifier" includes data  
3 generated, captured, or collected from the biological characteristics of  
4 a person depicted in a photograph or video;

5 (c) a human biological sample used for valid scientific testing or  
6 screening;

7 (d) demographic data;

8 (e) a physical description, including height, weight, hair color, eye  
9 color, or a tattoo description;

10 (f) any donated portion of a human body stored on behalf of a recipi-  
11 ent or potential recipient of a living cadaveric transplant and obtained  
12 or stored by a federally designated organ procurement agency, including  
13 an organ, tissue, an eye, a bone, an artery, blood, and any other fluid  
14 or serum;

15 (g) information collected, used, or stored for health care treatment,  
16 payment, or operations under the federal Health Insurance Portability  
17 and Accountability Act of 1996;

18 (h) any image or film of the human anatomy used to diagnose, provide a  
19 prognosis for, or treat an illness or other medical condition or to  
20 further validate scientific testing or screening including an x-ray, a  
21 roentgen process, computed tomography, a magnetic resonance imaging  
22 image, a positron emission tomography scan, and mammography; or

23 (i) information collected, used, or disclosed for human subject  
24 research that is conducted in accordance with the federal policy for the  
25 protection of human subjects, 45 C.F.R. Part 46, or other similar  
26 research ethics laws, or with the good clinical practice guidelines  
27 issued by the International Council for Harmonisation of Technical  
28 Requirements for Pharmaceuticals for Human Use.

29 2. "Biometric information" means any information, regardless of how it  
30 is captured, converted, stored, or shared, based on an individual's  
31 biometric identifier used to identify an individual. Biometric informa-  
32 tion shall not include information derived from items or procedures  
33 excluded under the definition of biometric identifiers.

34 3. "Confidential and sensitive information" means personal information  
35 that can be used to uniquely identify an individual or an individual's  
36 account or property which shall include, but shall not be limited to, a  
37 genetic marker, genetic testing information, a unique identifier number  
38 to locate an account or property, an account number, a personal iden-  
39 tification number, a pass code, a driver's license number, or a social  
40 security number.

41 4. "Private entity" means any individual, partnership, corporation,  
42 limited liability company, association, or other group, however organ-  
43 ized. A private entity shall not include a state or local government  
44 agency or any court in the state, a clerk of the court, or a judge or  
45 justice thereof.

46 5. "Written release" means:

47 (a) in any context other than employment: informed written consent,  
48 including written consent provided by electronic means. A valid written  
49 release may not be secured through a general release or user agreement.

50 (b) in the context of employment: a release executed by an employee as  
51 a condition of employment, provided that the private entity has first  
52 determined, and documented in writing, that the collection, storage, or  
53 use of the employee's biometric identifier or biometric information is  
54 strictly necessary to:

55 (i) accomplish essential functions of the employee's position that  
56 cannot reasonably be accomplished by non-biometric means;

1 (ii) enable business operations of the private entity that cannot  
2 reasonably be accomplished by non-biometric means; or

3 (iii) protect the health, safety, or security of employees, the phys-  
4 ical security of the employer's facilities, or the security of the  
5 employer's software or computer networks.

6 § 676-b. Retention; collection; disclosure; destruction. 1. A private  
7 entity in possession of biometric identifiers or biometric information  
8 must develop a written policy, made available to the public, establish-  
9 ing a retention schedule and guidelines for permanently destroying biom-  
10 etric identifiers and biometric information within a reasonable time,  
11 but in no event later than sixty days, after it is no longer necessary  
12 to maintain for the permissible purpose or purposes identified in the  
13 notice or for which the individual provided valid authorization or with-  
14 in one year of the individual's last interaction with the private enti-  
15 ty, whichever occurs first. Absent a valid warrant or subpoena issued by  
16 a court of competent jurisdiction, a private entity in possession of  
17 biometric identifiers or biometric information must comply with its  
18 established retention schedule and destruction guidelines.

19 2. No private entity may collect, capture, purchase, receive through  
20 trade, or otherwise obtain a person's or a customer's biometric identi-  
21 fier or biometric information, unless it first:

22 (a) informs the subject or the subject's legally authorized represen-  
23 tative in writing that a biometric identifier or biometric information  
24 is being collected or stored;

25 (b) informs the subject or the subject's legally authorized represen-  
26 tative in writing of the specific purpose and length of term for which a  
27 biometric identifier or biometric information is being collected,  
28 stored, and used; and

29 (c) receives a written release executed by the subject of the biome-  
30 tric identifier or biometric information or the subject's legally  
31 authorized representative.

32 3. No private entity in possession of a biometric identifier or biome-  
33 tric information may sell, lease, trade, or otherwise profit from a  
34 person's or a customer's biometric identifier or biometric information.

35 4. No private entity in possession of a biometric identifier or biome-  
36 tric information may disclose, redisclose, or otherwise disseminate a  
37 person's or a customer's biometric identifier or biometric information  
38 unless:

39 (a) the subject of the biometric identifier or biometric information  
40 or the subject's legally authorized representative consents to the  
41 disclosure or redisclosure;

42 (b) the disclosure or redisclosure completes a financial transaction  
43 requested or authorized by the subject of the biometric identifier or  
44 the biometric information or the subject's legally authorized represen-  
45 tative;

46 (c) the disclosure or redisclosure is required by federal, state or  
47 local law or municipal ordinance; or

48 (d) the disclosure is required pursuant to a valid warrant or subpoena  
49 issued by a court of competent jurisdiction.

50 5. A private entity in possession of a biometric identifier or biome-  
51 tric information shall:

52 (a) store, transmit, and protect from disclosure all biometric identi-  
53 fiers and biometric information using the reasonable standard of care  
54 within the private entity's industry; and

55 (b) store, transmit, and protect from disclosure all biometric identi-  
56 fiers and biometric information in a manner that is the same as or more

1 protective than the manner in which the private entity stores, trans-  
2 mits, and protects other confidential and sensitive information.

3 6. A private entity may not:

4 (a) condition the provision of a good or service on the collection,  
5 use, disclosure, transfer, sale, retention, or processing of biometric  
6 identifiers unless biometric identifiers are strictly necessary to  
7 provide the good or service; or

8 (b) charge different prices or rates for goods or services or provide  
9 a different level of quality of a good or service to any individual who  
10 exercises the individual's rights under this subtitle.

11 § 676-c. Regulatory authority and enforcement. 1.(a) The attorney  
12 general is authorized and empowered to adopt, promulgate, amend and  
13 rescind suitable rules and regulations to carry out the provisions of  
14 this article, including rules governing the form and content of any  
15 disclosures or communications required by this article.

16 (b) Whenever it appears to the attorney general, either upon  
17 complaint or otherwise, that any person or persons has engaged in or  
18 is about to engage in any of the acts or practices stated to be unlaw-  
19 ful under this article, the attorney general may bring an action or  
20 special proceeding in the name and on behalf of the people of the state  
21 of New York to enjoin any violation of this article, to obtain restitu-  
22 tion of any moneys or property obtained directly or indirectly by any  
23 such violation, to obtain disgorgement of any profits obtained  
24 directly or indirectly by any such violation, to obtain civil penalties  
25 of not more than twenty thousand dollars per violation, and to obtain  
26 any such other and further relief as the court may deem proper, includ-  
27 ing preliminary relief.

28 (c) Each instance of unlawful processing counts as a separate  
29 violation. Unlawful processing of the personal data of more than one  
30 consumer counts as a separate violation as to each consumer. Each  
31 provision of this article that is violated counts as a separate  
32 violation.

33 (d) In assessing the amount of penalties, the court must consider  
34 anyone or more of the relevant circumstances presented by any of  
35 the parties, including, but not limited to, the nature and seriousness  
36 of the misconduct, the number of violations, the persistence of the  
37 misconduct, the length of time over which the misconduct occurred, the  
38 willfulness of the violator's misconduct, and the violator's finan-  
39 cial condition.

40 2. Any action or special proceeding brought by the attorney general  
41 pursuant to this section must be commenced within six years of the date  
42 on which the attorney general became aware of the violation.

43 3. In connection with any proposed action or special proceeding under  
44 this section, the attorney general is authorized to take proof and make  
45 a determination of the relevant facts, and to issue subpoenas in accord-  
46 ance with the civil practice law and rules. The attorney general may  
47 also require such other data and information as the attorney general may  
48 deem relevant and may require written responses to questions under  
49 oath. Such power of subpoena and examination shall not abate or termi-  
50 nate by reason of any action or special proceeding brought by the  
51 attorney general under this article.

52 4. Any person, within or outside the state, who the attorney general  
53 believes may be in possession, custody, or control of any books, papers,  
54 or other things, or may have information, relevant to acts or practices  
55 stated to be unlawful in this article is subject to the service of a  
56 subpoena issued by the attorney general pursuant to this section.

1 Service may be made in any manner that is authorized for service of a  
2 subpoena or a summons by the state in which service is made.

3 5.(a) Failure to comply with a subpoena issued pursuant to this  
4 section without reasonable cause tolls the applicable statutes of limi-  
5 tations in any action or special proceeding brought by the attorney  
6 general against the noncompliant person that arises out of the attorney  
7 general's investigation.

8 (b) If a person fails to comply with a subpoena issued pursuant to  
9 this section, the attorney general may move in the supreme court to  
10 compel compliance. If the court finds that the subpoena was authorized,  
11 it shall order compliance and may impose a civil penalty of up to one  
12 thousand dollars per day of noncompliance.

13 (c) Such tolling and civil penalty shall be in addition to any other  
14 penalties or remedies provided by law for noncompliance with a subpoena.

15 6. This section shall apply to all acts declared to be unlawful under  
16 this article, whether or not subject to any other law of this state, and  
17 shall not supersede, amend or repeal any other law of this state under  
18 which the attorney general is authorized to take any action or conduct  
19 any inquiry.

20 7. An individual alleging a violation of this subtitle may bring a  
21 civil action against the offending private entity in a court of compe-  
22 tent jurisdiction. A prevailing plaintiff may recover for each  
23 violation:

24 (a) against a private entity that negligently violates a provision of  
25 this article, liquidated damages of one thousand dollars or actual  
26 damages, whichever is greater;

27 (b) against a private entity that intentionally or recklessly violates  
28 a provision of this article, liquidated damages of five thousand dollars  
29 or actual damages, whichever is greater;

30 (c) reasonable attorneys' fees and costs: the court shall assess  
31 reasonable attorneys' fees and other litigation costs reasonably  
32 incurred by such person in any case under the provisions of this  
33 section, including expert witness fees and other litigation expenses, in  
34 which such person has prevailed; and

35 (d) such other relief, including an injunction or declaration, as the  
36 court may deem appropriate.

37 8. One or more persons aggrieved by a violation of this article may  
38 bring a class action on behalf of all similarly situated persons pursu-  
39 ant to article nine of the civil practice law and rules. For purposes of  
40 class certification under article nine, violations of this article aris-  
41 ing from a private entity's common policy or practice of collecting,  
42 storing, using, or disclosing biometric identifiers or biometric infor-  
43 mation without a valid written release shall be presumed to present  
44 common questions of law or fact. Nothing in this subdivision shall be  
45 construed to limit any procedural right otherwise available to a class  
46 or its members under the civil practice law and rules.

47 9. For purposes of this article, the negligent recapturing of the  
48 identical biometric identifier from the identical subject for the iden-  
49 tical use as a prior capturing and use of a biometric identifier does  
50 not constitute a separate and distinct violation of this article.

51 § 676-d. Construction with other laws. 1. Nothing in this article  
52 shall be construed to impact the admission or discovery of biometric  
53 identifiers and biometric information in any action of any kind in any  
54 court, or before any tribunal, board, agency, or person.

55 2. Nothing in this article shall be construed to conflict with the  
56 federal Health Insurance Portability and Accountability Act of 1996.

1 3. Nothing in the article shall be deemed to apply in any manner to a  
2 financial institution or an affiliate of a financial institution that is  
3 subject to Title V of the federal Gramm-Leach-Bliley Act of 1999.

4 4. Nothing in this article shall be construed to apply to a contrac-  
5 tor, subcontractor, or agent of a state agency of local government when  
6 working for that state agency of local government.

7 § 676-e. Severability. If any provision of this article, or any appli-  
8 cation of any provision of this article, is held to be invalid, that  
9 shall not affect the validity or effectiveness of any other provision of  
10 this article, or of any other application of any provision of this arti-  
11 cle, which can be given effect without that provision or application;  
12 and to that end, the provisions and applications of this article are  
13 severable.

14 § 2. This act shall take effect on the ninetieth day after it shall  
15 have become a law.