

1 SB493
2 140416-1
3 By Senators Holtzclaw, Sanford, Pittman and Orr
4 RFD: Judiciary
5 First Read: 10-APR-12

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8 SYNOPSIS: This bill would establish the Right to Body
9 Data Privacy Act.

10 This bill would provide for definitions.

11 This bill would make it unlawful for any
12 government agency to deny a person any right due to
13 an individual's refusal to disclose certain
14 personal, biological data.

15 This bill would provide for exceptions.

16 This bill would provide for penalties.

17
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 To establish the Right to Body Data Privacy Act; to
23 provide for definitions; to make it unlawful for a government
24 entity to deny a person a right due to his or her refusal to
25 disclose certain personal biological data; and to provide
26 exceptions and penalties.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall be known and may be cited
3 as the Right to Body Data Privacy Act.

4 Section 2. As used in this act, the following words
5 shall have the following meanings:

6 (1) BIOMETRIC DATA. Information relating to a
7 biological characteristic of an individual that makes that
8 individual unique from any other individual, including the
9 following:

10 a. Fingerprints, palm prints, and other means for
11 measuring or recording ridge pattern or fingertip
12 characteristics.

13 b. Facial feature pattern characteristics, excluding
14 any low resolution photographic image of a face.

15 c. Voice data collected for comparing live speech
16 with a previously created speech model of an individual's
17 voice.

18 d. Iris recognition data containing color or texture
19 patterns or codes.

20 e. Keystroke dynamics, measuring pressure applied to
21 key pads.

22 f. Hand geometry, measuring hand characteristics,
23 including the shape and length of fingers, in three
24 dimensions.

25 g. Retinal scans or reading through the pupil to
26 measure blood vessels lining the retina.

1 h. Deoxyribonucleic acid or ribonucleic acid.

2 (2) GOVERNMENT AGENCY. Any government entity or
3 agent of a government entity, or any political subdivision
4 thereof.

5 (3) LOW RESOLUTION PHOTOGRAPHIC IMAGE OF A FACE. A
6 photographic image of a face or a portion of a face with
7 resolution no greater than necessary for human identification
8 and verification, including photo images with a resolution
9 that enables the extraction of biometric data.

10 Section 3. (a) It shall be unlawful for any
11 government agency to deny to any individual any right,
12 benefit, or privilege provided by law because of the
13 individual's refusal to disclose the individual's biometric
14 data.

15 (b) (1) Except as provided under subdivision (2), the
16 provisions of subsection (a) shall not apply to any disclosure
17 of biometric data which is required by any of the following:

18 a. Any federal statute finally enacted on or before
19 May 10, 2005.

20 b. Any state statute finally enacted on or before
21 the effective date of this section.

22 (2) The provisions of subdivision (1) shall not
23 apply to any disclosure of biometric data:

24 a. Required pursuant to arrest or indictment.

1 b. Requested by any law enforcement agency or
2 officer with probable cause that the individual has committed
3 a crime.

4 (c) Any government agency which requests an
5 individual to disclose the individual's biometric data shall
6 inform that individual whether the disclosure is mandatory or
7 voluntary, by what statutory or other authority the data is
8 solicited and what uses will be made of the data.

9 Section 4. Any individual whose biometric data is
10 collected in violation of this act may bring an action in the
11 circuit court for enforcement of the remedies available under
12 this section. If the individual prevails, the court shall
13 order the government agency to do all of the following:

14 (1) Remove the biometric data collected in violation
15 of this act from any database or other means of storage so
16 that the biometric data is not retained by the government
17 agency.

18 (2) Pay the individual's reasonable attorney fees
19 and costs of litigation.

20 (3) Pay the greater of one hundred dollars (\$100)
21 per collection in violation of this act or actual damages.

22 Section 5. (a) A government agency or an employee of
23 a government agency who violates this act with the intent and
24 purpose of violating this act commits a summary offense
25 subject to prosecution by the appropriate district attorney
26 and shall, upon conviction, be sentenced to pay a fine of not

1 more than three hundred dollars (\$300) plus costs of
2 prosecution.

3 (b) A government agency or an employee of a
4 government agency who does not promptly comply with a court
5 order under Section 4 is subject to a civil penalty of not
6 more than three hundred dollars (\$300) per day until the
7 biometric data are removed.

8 Section 6. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.