HOUSE BILL 1148

E4   7lr0943

By: **Delegate Sydnor**
Introduced and read first time: February 9, 2017
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

Face Recognition Act

3 FOR the purpose of prohibiting certain police officers from using or requesting targeted or
4   continuous face recognition under certain circumstances; providing that certain
5   police officers may use or request targeted or continuous face recognition under
6   certain circumstances; providing for certain procedures for applying to a court for
7   certain orders; authorizing a court to enter an order authorizing the use of targeted
8   or continuous face recognition under certain circumstances; establishing certain
9   evidentiary rules; providing for certain civil liability and certain remedies for certain
10   violations of this Act; providing for a certain period of limitations for a certain civil
11   action; defining certain terms; and generally relating to the use of face recognition
12   systems by certain investigative or law enforcement officers under certain
13   circumstances.

14 BY adding to
15   Article – Public Safety
16   Section 3–801 through 3–805 to be under the new subtitle "Subtitle 8. Face
17   Recognition Act"
18   Annotated Code of Maryland
19   (2011 Replacement Volume and 2016 Supplement)

20   SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

Article – Public Safety

SUBTITLE 8. FACE RECOGNITION ACT.

24 **3–801.**

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1   (A)   IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3   (B)   "ARREST PHOTO DATABASE" MEANS A GOVERNMENT OR PRIVATE
4 DATABASE POPULATED PRIMARILY BY BOOKING OR ARREST PHOTOGRAPHS OR
5 PHOTOGRAPHS OF INDIVIDUALS ENCOUNTERED BY POLICE OFFICERS.

6   (C)   "CENTER" MEANS THE MARYLAND COORDINATION AND ANALYSIS
7 CENTER.

8   (D)   "CONTINUOUS FACE RECOGNITION" MEANS THE USE OF FACE
9 RECOGNITION ON GROUPS OF INDIVIDUALS AS PART OF A CRIMINAL INVESTIGATION
10 OR GENERAL SURVEILLANCE, INCLUDING THE USE OF FACE RECOGNITION TO
11 CONTINUOUSLY IDENTIFY INDIVIDUALS WHOSE IMAGES ARE CAPTURED OR
12 RECORDED BY A SURVEILLANCE CAMERA.

13   (E)   "COURT" MEANS THE DISTRICT COURT OR A CIRCUIT COURT HAVING
14 JURISDICTION OVER THE CRIME BEING INVESTIGATED.

15   (F)   "EMERGENCY WATCH LIST" MEANS A HIGHLY TARGETED DATABASE
16 POPULATED BY A SPECIFIC INDIVIDUAL OR INDIVIDUALS WHOM THERE IS
17 PROBABLE CAUSE TO BELIEVE HAVE COMMITTED, ARE COMMITTING, OR ARE ABOUT
18 TO COMMIT AN OFFENSE THAT INVOLVES THE IMMEDIATE DANGER OF DEATH OR
19 SERIOUS PHYSICAL INJURY TO ANOTHER INDIVIDUAL.

20   (G)   "EXIGENT CIRCUMSTANCES" MEANS AN EMERGENCY OR OTHER
21 JUDICIALLY RECOGNIZED EXCEPTION TO CONSTITUTIONAL WARRANT
22 REQUIREMENTS.

23   (H)   "FACE RECOGNITION" MEANS THE AUTOMATED OR SEMIAUTOMATED
24 PROCESS BY WHICH AN INDIVIDUAL IS SOUGHT TO BE IDENTIFIED BASED ON THE
25 CHARACTERISTICS OF THE INDIVIDUAL'S FACE, INCLUDING IRISES AND EARS.

26   (I)   "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN §
27 3–201(D) OF THIS TITLE.

28   (J)   "LEGITIMATE LAW ENFORCEMENT PURPOSE" MEANS THE
29 INVESTIGATION, DETECTION, OR ANALYSIS OF A CRIME OR THE OPERATION OF
30 TERRORISTS OR MISSING OR ENDANGERED PERSON SEARCHES OR ALERTS.

31   (K)   "POLICE OFFICER" HAS THE SAME MEANING STATED IN § 3–201(F) OF
32 THIS TITLE.

1   (L) "STATE IDENTIFICATION PHOTO DATABASE" MEANS A GOVERNMENT OR
2 PRIVATE DATABASE POPULATED PRIMARILY BY PHOTOGRAPHS FROM DRIVERS'
3 LICENSES OR IDENTIFICATION DOCUMENTS MADE OR ISSUED BY OR UNDER THE
4 AUTHORITY OF THE STATE.

5   (M) "TARGETED FACE RECOGNITION" MEANS THE USE OF FACE
6 RECOGNITION TO IDENTIFY OR ATTEMPT TO IDENTIFY A SPECIFIC INDIVIDUAL AS
7 PART OF A SPECIFIC CRIMINAL INVESTIGATION.

8 **3–802.**

9   (A) A POLICE OFFICER MAY NOT USE OR REQUEST TARGETED FACE
10 RECOGNITION IN CONJUNCTION WITH AN ARREST PHOTO DATABASE UNLESS THAT
11 OFFICER:

12   (1) HAS PROBABLE CAUSE TO BELIEVE THAT THE INDIVIDUAL THE
13 POLICE OFFICER SEEKS TO IDENTIFY HAS COMMITTED, IS COMMITTING, OR IS
14 ABOUT TO COMMIT A MISDEMEANOR OR A FELONY; AND

15   (2) DOCUMENTS THAT PROBABLE CAUSE BEFORE OR IMMEDIATELY
16 AFTER THE USE OR REQUEST.

17   (B) (1) A POLICE OFFICER MAY NOT USE OR REQUEST TARGETED FACE
18 RECOGNITION IN CONJUNCTION WITH A STATE IDENTIFICATION PHOTO DATABASE
19 EXCEPT AS PROVIDED IN THIS SUBSECTION.

20   (2) A COURT MAY ISSUE AN ORDER AUTHORIZING A POLICE OFFICER
21 TO USE OR REQUEST TARGETED FACE RECOGNITION IN CONJUNCTION WITH A
22 STATE IDENTIFICATION PHOTO DATABASE AFTER DETERMINING FROM AN
23 APPLICATION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION THAT THERE IS
24 PROBABLE CAUSE TO BELIEVE THAT:

25   (I) A MISDEMEANOR OR FELONY HAS BEEN, IS BEING, OR WILL
26 BE COMMITTED BY THE INDIVIDUAL SOUGHT TO BE IDENTIFIED; AND

27   (II) THE USE OF FACE RECOGNITION WILL LEAD TO:

28   1. EVIDENCE OF THE MISDEMEANOR OR FELONY BEING
29 INVESTIGATED; OR

30   2. THE APPREHENSION OF AN INDIVIDUAL FOR WHOM
31 AN ARREST WARRANT HAS BEEN ISSUED PREVIOUSLY.

1   **(3)**   AN APPLICATION FOR AN ORDER UNDER THIS SUBSECTION SHALL
2   BE:

3   **(I)**   IN WRITING;

4   **(II)**   SIGNED AND SWORN TO OR BY THE APPLICANT; AND

5   **(III)**   ACCOMPANIED BY AN AFFIDAVIT THAT:

6   **1.**   SETS FORTH THE BASIS FOR PROBABLE CAUSE AS
7   DESCRIBED IN PARAGRAPH **(2)** OF THIS SUBSECTION; AND

8   **2.**   CONTAINS   FACTS   WITHIN   THE   PERSONAL
9   KNOWLEDGE OF THE AFFIANT.

10   **(4)**   AN ORDER ISSUED UNDER THIS SUBSECTION SHALL NAME OR
11   DESCRIBE WITH REASONABLE PARTICULARITY:

12   **(I)**   THE   PHOTOGRAPHS   OR   VIDEO   RECORDINGS   OF   THE
13   INDIVIDUAL THAT WILL BE USED TO SEARCH THE STATE IDENTIFICATION PHOTO
14   DATABASE;

15   **(II)**   THE   STATE   IDENTIFICATION   PHOTO   DATABASE   TO   BE
16   SEARCHED;

17   **(III)**   THE AUTHORITY UNDER WHICH THE ORDER IS MADE AND
18   THE GROUNDS FOR APPROVING THE USE OF FACE RECOGNITION;

19   **(IV)**   THE NAME OF THE APPLICANT ON WHOSE APPLICATION THE
20   ORDER WAS ISSUED; AND

21   **(V)**   THE PERIOD OF TIME WITHIN WHICH THE SEARCH SHALL BE
22   EXECUTED, NOT TO EXCEED 10 CALENDAR DAYS FROM THE DATE OF ISSUANCE OF
23   THE ORDER.

24   **(C)**   **(1)**   A POLICE OFFICER MAY NOT USE OR REQUEST CONTINUOUS FACE
25   RECOGNITION WITHIN THE STATE EXCEPT AS PROVIDED IN THIS SUBSECTION.

26   **(2)**   A COURT MAY ISSUE AN ORDER AUTHORIZING A POLICE OFFICER
27   TO USE OR REQUEST CONTINUOUS FACE RECOGNITION WITHIN THE STATE IN
28   CONJUNCTION WITH AN EMERGENCY WATCH LIST AFTER DETERMINING FROM AN
29   APPLICATION DESCRIBED IN PARAGRAPH **(3)** OF THIS SUBSECTION THAT THERE IS
30   PROBABLE CAUSE TO BELIEVE THAT:

1   (I)   A FELONY INVOLVING THE IMMEDIATE DANGER OF DEATH
2 OR SERIOUS BODILY INJURY HAS BEEN, IS BEING, OR WILL BE COMMITTED BY THE
3 INDIVIDUAL OR INDIVIDUALS INCLUDED IN THE EMERGENCY WATCH LIST;

4   (II)   AN EMERGENCY SITUATION EXISTS THAT REQUIRES THE
5 USE OF CONTINUOUS FACE RECOGNITION WITHOUT DELAY; AND

6   (III)   THE USE OF FACE RECOGNITION WILL:

7   1.   LEAD   TO   EVIDENCE   OF   THE   FELONY   BEING
8 INVESTIGATED;

9   2.   LEAD TO THE APPREHENSION OF AN INDIVIDUAL FOR
10 WHOM AN ARREST WARRANT HAS BEEN ISSUED PREVIOUSLY; OR

11   3.   PREVENT A PERSON'S DEATH OR SERIOUS BODILY
12 INJURY.

13   (3)   AN APPLICATION FOR AN ORDER UNDER THIS SUBSECTION SHALL
14 BE:

15   (I)   IN WRITING;

16   (II)   SIGNED AND SWORN TO OR BY THE APPLICANT; AND

17   (III)   ACCOMPANIED BY AN AFFIDAVIT THAT:

18   1.   SETS FORTH THE BASIS FOR PROBABLE CAUSE AS
19 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION; AND

20   2.   CONTAINS   FACTS   WITHIN   THE   PERSONAL
21 KNOWLEDGE OF THE AFFIANT.

22   (4)   AN ORDER ISSUED UNDER THIS SUBSECTION SHALL NAME OR
23 DESCRIBE WITH REASONABLE PARTICULARITY:

24   (I)   THE INDIVIDUAL OR INDIVIDUALS ENROLLED IN THE
25 EMERGENCY WATCH LIST, INCLUDING THEIR IDENTITIES, IF KNOWN, AND THE
26 PHOTOGRAPHS OR VIDEO RECORDINGS THROUGH WHICH THEY HAVE BEEN
27 ENROLLED IN THE LIST;

1   **(II)**   THE AUTHORITY UNDER WHICH THE ORDER IS MADE AND
2   THE GROUNDS FOR APPROVING THE USE OF FACE RECOGNITION; AND

3   **(III)**   THE NAME OF THE APPLICANT ON WHOSE APPLICATION THE
4   ORDER WAS ISSUED; AND

5   **(IV)**   SPECIFY THE LOCATIONS AND THE PERIOD OF TIME FOR
6   WHICH CONTINUOUS FACE RECOGNITION IS AUTHORIZED, NOT TO EXCEED 7 DAYS
7   UNLESS EXTENDED AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION;

8   **(5)   (I)**   THE AUTHORITY TO CONDUCT CONTINUOUS FACE
9   RECOGNITION UNDER THE ORDER MAY BE EXTENDED BEYOND 7 CALENDAR DAYS
10   ON A FINDING OF CONTINUING PROBABLE CAUSE.

11   **(II)**   AN EXTENSION UNDER THIS PARAGRAPH MAY NOT EXCEED
12   AN ADDITIONAL 7 CALENDAR DAYS, UNLESS THE COURT FINDS CONTINUING
13   PROBABLE CAUSE AND DETERMINES THAT GOOD CAUSE EXISTS FOR A LONGER
14   EXTENSION.

15   **(D)   (1)**   NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
16   POLICE OFFICER MAY USE OR REQUEST TARGETED OR CONTINUOUS FACE
17   RECOGNITION:

18   **(I)**   IN EXIGENT CIRCUMSTANCES;

19   **(II)**   TO IDENTIFY OR LOCATE AN INDIVIDUAL WHO IS DECEASED,
20   INCAPACITATED, OR REASONABLY SUSPECTED TO BE THE VICTIM OF A CRIME,
21   WHOM THE OFFICER DETERMINES, IN GOOD FAITH, CANNOT BE IDENTIFIED
22   THROUGH OTHER MEANS;

23   **(III)**   TO LOCATE AN INDIVIDUAL WHO HAS BEEN REPORTED
24   MISSING, INCLUDING THE SUBJECT OF AN AMBER OR SILVER ALERT;

25   **(IV)**   TO IDENTIFY AN INDIVIDUAL WHO HAS BEEN LAWFULLY
26   ARRESTED, DURING THE PROCESS OF BOOKING THAT INDIVIDUAL AFTER AN ARREST
27   OR DURING THAT INDIVIDUAL'S CUSTODIAL DETENTION; OR

28   **(V)**   TO ASSIST THE MOTOR VEHICLE ADMINISTRATION IN
29   INVESTIGATING INDIVIDUAL CASES OF IDENTITY FRAUD UNDER § 8–301 OF THE
30   CRIMINAL LAW ARTICLE THROUGH DEDUPLICATION ANALYSIS.

31   **(2)   (I)**   IF A POLICE OFFICER USES OR REQUESTS TARGETED FACE
32   RECOGNITION IN CONJUNCTION WITH A STATE IDENTIFICATION PHOTO DATABASE

1 OR CONTINUOUS FACE RECOGNITION UNDER PARAGRAPH (1)(I) OF THIS
2 SUBSECTION, THE OFFICER SHALL APPLY FOR AN ORDER APPROVING THE USE
3 UNDER SUBSECTION (B) OR (C) OF THIS SECTION WITHIN 24 HOURS AFTER THE USE
4 OCCURS OR INITIATES.

5 (II) THE USE SHALL TERMINATE IMMEDIATELY IF THE
6 APPLICATION FOR APPROVAL IS DENIED, OR IN THE ABSENCE OF AN APPLICATION
7 WITHIN 24 HOURS.

8 (III) IN A CASE IN WHICH AN ORDER IS NOT OBTAINED, THE
9 POLICE OFFICER SHALL DESTROY ALL INFORMATION OBTAINED AS A RESULT OF
10 THE SEARCH.

11 3–803.

12 (A) A POLICE OFFICER MAY USE OR REQUEST TARGETED OR CONTINUOUS
13 FACE RECOGNITION ONLY FOR A LEGITIMATE LAW ENFORCEMENT PURPOSE.

14 (B) A POLICE OFFICER WHO KNOWINGLY VIOLATES THIS SECTION IS
15 SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING
16 $10,000 OR BOTH.

17 3–804.

18 (A) (1) AN INDIVIDUAL ARRESTED AS A RESULT OF AN INVESTIGATIVE
19 LEAD GENERATED THROUGH THE USE OR REQUEST OF TARGETED OR CONTINUOUS
20 FACE RECOGNITION SHALL BE NOTIFIED OF THAT USE OR REQUEST.

21 (2) THE NOTICE SHALL:

22 (I) STATE THE GENERAL NATURE OF THE LAW ENFORCEMENT
23 INQUIRY; AND

24 (II) PROVIDE TO THE INDIVIDUAL:

25 1. THE INFORMATION REGARDING THE DATABASE THAT
26 WAS USED TO IDENTIFY THE INDIVIDUAL AND THE PHOTOGRAPH OR VIDEO
27 RECORDING THAT WAS USED TO SEARCH THAT DATABASE;

28 2. A COPY OF THE ORDER THAT AUTHORIZED THE USE
29 OR REQUEST UNDER § 3–802(B) AND (C) OF THIS SUBTITLE, IF APPLICABLE; AND

1   **3.**   INFORMATION REGARDING WHETHER NOTIFICATION
2   WAS DELAYED.

3   **(3)**   SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, NOTICE MUST
4   BE DELIVERED WITHIN 48 HOURS OF THAT INDIVIDUAL'S ARREST.

5   **(4)**   NOTWITHSTANDING ANY PROVISION OF THE MARYLAND RULES
6   OR THIS SUBTITLE, THE COURT, ON A FINDING OF GOOD CAUSE AS DESCRIBED IN §
7   1–203.1(D)(5) OF THE CRIMINAL PROCEDURE ARTICLE, MAY ORDER THAT THE
8   APPLICATION, AFFIDAVIT, AND ORDERS ISSUED UNDER § 3–802 OF THIS SUBTITLE
9   BE SEALED AND THAT THE NOTIFICATION REQUIRED UNDER THIS SECTION BE
10   DELAYED FOR A PERIOD OF 30 CALENDAR DAYS, OR FOR AN ADDITIONAL PERIOD, IF
11   THE COURT MAKES A FINDING DESCRIBED IN § 1–203.1(D)(6) OF THE CRIMINAL
12   PROCEDURE ARTICLE.

13   **(B)**   DISCOVERY OF AN APPLICATION, AFFIDAVIT, OR ORDER UNDER §
14   3–802(B) AND (C) OF THIS SUBTITLE, AND ANY DOCUMENTS RELATED TO THE USE
15   OR REQUEST OF CONTINUOUS OR TARGETED FACE RECOGNITION, IF ANY, ARE
16   SUBJECT TO THE PROVISIONS OF MARYLAND RULES 4–262 AND 4–263.

17   **(C)**   THE MOTOR VEHICLE ADMINISTRATION SHALL POST NOTICES IN
18   CONSPICUOUS LOCATIONS AT EACH OF ITS LOCATIONS, MAKE WRITTEN
19   INFORMATION AVAILABLE TO EACH APPLICANT AT ITS LOCATIONS, AND PROVIDE
20   INFORMATION ON THE MOTOR VEHICLE ADMINISTRATION'S WEB SITE REGARDING
21   LAW ENFORCEMENT FACE RECOGNITION SEARCHES OF DRIVER'S LICENSE AND
22   IDENTIFICATION CARD PHOTOGRAPHS.

23   **3–805.**

24   **(A)**   THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
25   AND ANY LAW ENFORCEMENT AGENCY USING TARGETED OR CONTINUOUS FACE
26   RECOGNITION SHALL ADOPT AN AUDIT PROCESS TO ENSURE THAT FACE
27   RECOGNITION IS USED ONLY FOR LEGITIMATE LAW ENFORCEMENT PURPOSES,
28   INCLUDING AUDITS OF USES OR REQUESTS MADE BY LAW ENFORCEMENT AGENCIES
29   OR INDIVIDUAL POLICE OFFICERS.

30   **(B)**   ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2018, THE
31   DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN
32   CONJUNCTION WITH THE CENTER AND LAW ENFORCEMENT AGENCIES THAT USE
33   TARGETED OR CONTINUOUS FACE RECOGNITION, SHALL REPORT TO THE SENATE
34   JUDICIAL PROCEEDING COMMITTEE AND THE HOUSE JUDICIARY COMMITTEE, IN
35   ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
36   FOLLOWING INFORMATION BASED ON DATA FROM THE PREVIOUS CALENDAR YEAR,

FOR USES OR REQUESTS OF TARGETED FACE RECOGNITION IN CONJUNCTION WITH AN ARREST DATABASE, TARGETED FACE RECOGNITION IN CONJUNCTION WITH A STATE IDENTIFICATION PHOTO DATABASE, AND CONTINUOUS FACE RECOGNITION IN CONJUNCTION WITH AN EMERGENCY WATCH LIST, RESPECTIVELY:

(1) THE NUMBER OF SEARCHES RUN;

(2) THE NUMBER OF ARRESTS AND CONVICTIONS THAT RESULTED FROM THE SEARCHES;

(3) THE OFFENSES THAT THE SEARCHES WERE USED TO INVESTIGATE;

(4) THE NUMBER OF MOTIONS TO SUPPRESS MADE WITH RESPECT TO THE SEARCHES;

(5) THE NUMBER OF SEARCHES RUN IN ACCORDANCE WITH § 3–802(D)(1)(I) OF THIS SUBTITLE;

(6) FOR TARGETED FACE RECOGNITION IN CONJUNCTION WITH AN ARREST PHOTO DATABASE OR A STATE IDENTIFICATION PHOTO DATABASE, RESPECTIVELY, SUMMARY STATISTICS ON THE RACE, ETHNICITY, AGE, AND GENDER OF THE INDIVIDUALS WHOSE FACES WERE SEARCHED;

(7) FOR CONTINUOUS FACE RECOGNITION IN CONJUNCTION WITH AN EMERGENCY WATCH LIST:

(I) THE SPECIFIC LOCATIONS WHERE THE SEARCHES WERE RUN;

(II) THE DURATION OF THOSE SEARCHES;

(III) THE NUMBER OF INDIVIDUALS INCLUDED ON THE EMERGENCY WATCH LIST; AND

(IV) SUMMARY STATISTICS ON THE RACE, ETHNICITY, AGE, AND GENDER OF THE INDIVIDUALS INCLUDED ON THE LIST; AND

(8) A LIST OF AUDITS THAT WERE COMPLETED BY THE CENTER OR A LAW ENFORCEMENT AGENCY AND A SUMMARY OF THEIR RESULTS.

3–805.

1   (A)   WHEN TARGETED OR CONTINUOUS FACE RECOGNITION IS USED OR
2   REQUESTED, RESULTS FROM THOSE SEARCHES AND EVIDENCE DERIVED FROM THE
3   TARGETED OR CONTINUOUS FACE RECOGNITION MAY NOT BE RECEIVED IN
4   EVIDENCE IN A TRIAL, A HEARING, OR ANY OTHER PROCEEDING IN OR BEFORE A
5   COURT, GRAND JURY, DEPARTMENT, OFFICER, AGENCY, REGULATORY BODY,
6   LEGISLATIVE COMMITTEE, OR ANY OTHER AUTHORITY OF THE STATE IF:

7   (1)   THE USE OF FACE RECOGNITION VIOLATED § 3–802, § 3–803, OR §
8   3–804 OF THIS SUBTITLE; OR

9   (2)   THE POLICE OFFICER WAS REQUIRED TO SUBSEQUENTLY OBTAIN
10 AN ORDER FOR THE USE OR REQUEST IN ACCORDANCE WITH § 3–802(D)(2)(I), BUT
11 DID NOT SUBSEQUENTLY OBTAIN SUCH AN ORDER.

12   (B)   THE EVIDENTIARY BAR DESCRIBED IN SUBSECTION (A) OF THIS
13 SECTION DOES NOT APPLY TO SEARCH RESULTS AND EVIDENCE DERIVED FROM THE
14 SEARCH RESULTS THAT ARE USED TO PROVE A VIOLATION OF THIS SECTION.

15   (C)   (1)   IN THIS SUBSECTION, "APPROPRIATE RELIEF" INCLUDES:

16   (I)   PRELIMINARY AND OTHER EQUITABLE OR DECLARATORY
17 RELIEF AS MAY BE APPROPRIATE;

18   (II)   ACTUAL   DAMAGES   AND   PUNITIVE   DAMAGES   IN
19 APPROPRIATE CASES; AND

20   (III) REASONABLE ATTORNEY'S FEES AND OTHER LITIGATION
21 COSTS REASONABLY INCURRED.

22   (2)   AN INDIVIDUAL WHO IS SUBJECT TO IDENTIFICATION OR
23 ATTEMPTED   IDENTIFICATION   THROUGH   TARGETED   CONTINUOUS   FACE
24 RECOGNITION IN VIOLATION OF THIS SUBTITLE, OR WHO DOES NOT RECEIVE THE
25 NOTICE REQUIRED UNDER § 3–804 OF THIS SUBTITLE, MAY RECOVER APPROPRIATE
26 RELIEF IN A CIVIL ACTION FROM THE LAW ENFORCEMENT AGENCY THAT EMPLOYS
27 THE POLICE OFFICER.

28   (3)   THE TRIER OF FACT MAY ASSESS AS DAMAGES THE GREATER OF:

29   (I)   THE SUM OF THE ACTUAL DAMAGES SUFFERED BY THE
30 PLAINTIFF AS A RESULT OF THE VIOLATION; OR

31   (II)   STATUTORY DAMAGES OF THE GREATER OF:

1   **1.**   **$500** A DAY FOR EACH DAY OF VIOLATION; OR

2   **2.**   **$50,000.**

3   **(4)**   IT IS A COMPLETE DEFENSE AGAINST ANY CIVIL OR CRIMINAL
4 ACTION BROUGHT UNDER THIS SUBTITLE IF THE DEFENDANT RELIES IN GOOD
5 FAITH ON A COURT WARRANT OR ORDER, A GRAND JURY SUBPOENA, A LEGISLATIVE
6 AUTHORIZATION, OR A STATUTORY AUTHORIZATION.

7   **(5)**   A CIVIL ACTION UNDER THIS SECTION MAY NOT BE COMMENCED
8 LATER THAN 3 YEARS AFTER THE DATE ON WHICH THE CLAIMANT FIRST HAS A
9 REASONABLE OPPORTUNITY TO DISCOVER THE VIOLATION.

10   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2017.