By: Delegate Cox
Introduced and read first time: February 25, 2022
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

AN ACT concerning

Biometric Authentication Requirements for Governmental Services – Prohibition

FOR the purpose of prohibiting the requirement of biometric authentication by a federal or State governmental entity or federal or State agency in order for an individual to access a governmental account or governmental service; and generally relating to a prohibition against the use of biometric identification by governmental entities and agents.

BY adding to

Article – Criminal Law
Section 1–402
Annotated Code of Maryland
(2021 Replacement Volume and 2021 Supplement)

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

Article – Criminal Law

1–402.

(A) IN THIS SECTION, “BIOMETRIC AUTHENTICATION” INCLUDES:

(1) FACIAL RECOGNITION SOFTWARE;

(2) THUMBPRINT, HAND SHAPE, AND PALMPRINT IDENTIFICATION TECHNOLOGY;

(3) TECHNOLOGY THAT ANALYZES DNA; AND

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(4) Any similar technology designed to confirm the identity of an individual by assessing unique biological characteristics of the individual.

(B) (1) The immunity provisions protecting State and local government personnel under the Local Government Tort Claims Act under Title 5, Subtitle 3 of the Courts Article or the Maryland Tort Claims Act under Title 12, Subtitle 1 of the State Government Article do not apply to a civil action brought under this subtitle.

(2) Any element of governmental immunity is not a defense to a claim brought under this section.

(C) A federal or State entity or an agent of a State or federal entity may not require an individual to confirm the individual’s identity by use of biometric authentication in order for the individual to access a governmental account or governmental service.

(D) A federal or State agent who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $10,000 or both.

(E) (1) In addition to a criminal prosecution authorized under this section, an individual may bring an action for damages against a federal or State governmental entity and a federal or State agent.

(2) The court may order treble damages under this section if the court finds that the violation of this section was willful.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.