

SENATE BILL 192

E4
SB 762/22 – JPR

3lr0694
CF HB 223

By: **Senator Sydnor**

Introduced and read first time: January 20, 2023

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2023

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Facial Recognition Technology – Requirements,**
3 **Procedures, and Prohibitions**

4 FOR the purpose of establishing requirements, procedures, and prohibitions relating to the
5 use of facial recognition technology by a law enforcement agency under certain
6 circumstances; and generally relating to facial recognition technology.

7 BY adding to

8 Article – Criminal Procedure

9 Section 2–501 through 2–510 to be under the new subtitle “Subtitle 5. Facial
10 Recognition Technology”

11 Annotated Code of Maryland

12 (2018 Replacement Volume and 2022 Supplement)

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

15 **Article – Criminal Procedure**

16 **SUBTITLE 5. FACIAL RECOGNITION TECHNOLOGY.**

17 **2–501.**

18 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
19 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **(B) (1) “FACIAL RECOGNITION TECHNOLOGY” MEANS A COMPUTER**
2 **PROGRAM, SERVICE, OR OTHER TECHNOLOGY THAT ANALYZES FACIAL FEATURES**
3 **AND IS USED BY OR AT THE DIRECTION OF A LAW ENFORCEMENT AGENCY FOR THE**
4 **IDENTIFICATION, VERIFICATION, OR PERSISTENT TRACKING OF INDIVIDUALS IN**
5 **STILL OR VIDEO IMAGES FOR USE IN CRIMINAL INVESTIGATIONS.**

6 **(2) “FACIAL RECOGNITION TECHNOLOGY” DOES NOT INCLUDE**
7 **TECHNOLOGY:**

8 **(I) USED ONLY FOR THE ANALYSIS OF FACIAL FEATURES TO**
9 **GRANT OR DENY ACCESS TO AN ELECTRONIC DEVICE; OR**

10 **(II) THAT USES AN AUTOMATED OR SEMIAUTOMATED PROCESS**
11 **ONLY FOR THE PURPOSE OF REDACTING A RECORDING OR AN IMAGE FOR RELEASE**
12 **OR DISCLOSURE OUTSIDE A LAW ENFORCEMENT AGENCY TO PROTECT THE PRIVACY**
13 **OF A SUBJECT DEPICTED IN THE RECORDING OR IMAGE IF THE PROCESS DOES NOT**
14 **GENERATE OR RESULT IN THE RETENTION OF ANY BIOMETRIC DATA OR**
15 **SURVEILLANCE INFORMATION.**

16 **(C) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 2-101**
17 **OF THE PUBLIC SAFETY ARTICLE.**

18 **2-502.**

19 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, RESULTS**
20 **GENERATED BY FACIAL RECOGNITION TECHNOLOGY MAY NOT BE INTRODUCED IN A**
21 **CRIMINAL PROCEEDING OR IN A DELINQUENCY PROCEEDING UNDER TITLE 3,**
22 **SUBTITLE 8A OF THE COURTS ARTICLE.**

23 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, RESULTS**
24 **GENERATED BY FACIAL RECOGNITION TECHNOLOGY MAY BE CONSIDERED OR**
25 **INTRODUCED AS EVIDENCE IN CONNECTION WITH A CRIMINAL PROCEEDING ONLY**
26 **FOR THE PURPOSE OF ESTABLISHING PROBABLE CAUSE OR POSITIVE**
27 **IDENTIFICATION:**

28 **(I) IN CONNECTION WITH THE ISSUANCE OF A WARRANT; OR**

29 **(II) AT A PRELIMINARY HEARING.**

30 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
31 **RESULTS GENERATED BY FACIAL RECOGNITION TECHNOLOGY MAY NOT SERVE AS**
32 **THE SOLE BASIS TO ESTABLISH PROBABLE CAUSE OR THE POSITIVE**

1 IDENTIFICATION OF AN INDIVIDUAL IN A CRIMINAL INVESTIGATION OR
2 PROCEEDING.

3 (II) PROBABLE CAUSE OR POSITIVE IDENTIFICATION MAY BE
4 ESTABLISHED USING FACIAL RECOGNITION TECHNOLOGY ONLY IF THE RESULTS
5 ARE SUPPORTED BY ADDITIONAL, INDEPENDENTLY OBTAINED EVIDENCE
6 ESTABLISHING PROBABLE CAUSE OR A POSITIVE IDENTIFICATION.

7 2-503.

8 (A) (1) A POLICE OFFICER OR OTHER EMPLOYEE OR AGENT OF A LAW
9 ENFORCEMENT AGENCY MAY NOT, IN THE FURTHERANCE OF A CRIMINAL
10 INVESTIGATION:

11 (I) USE FACIAL RECOGNITION TECHNOLOGY TO INVESTIGATE A
12 CRIME OTHER THAN THE COMMISSION OF OR THE ATTEMPT TO COMMIT:

13 1. A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF
14 THE CRIMINAL LAW ARTICLE;

15 2. A HUMAN TRAFFICKING OFFENSE UNDER TITLE 3,
16 SUBTITLE 11 OF THE CRIMINAL LAW ARTICLE; ~~OR~~

17 3. FIRST OR SECOND DEGREE CHILD ABUSE UNDER §
18 3-601 OF THE CRIMINAL LAW ARTICLE;

19 4. A CHILD PORNOGRAPHY OFFENSE UNDER § 11-207 OF
20 THE CRIMINAL LAW ARTICLE;

21 5. A HATE CRIME UNDER § 10-304 OF THE CRIMINAL
22 LAW ARTICLE;

23 6. A WEAPON CRIME UNDER § 4-102, § 4-103, §
24 4-203(A)(1)(III), § 4-203(A)(1)(IV), § 4-204, OR § 4-303(A)(2) OF THE CRIMINAL
25 LAW ARTICLE;

26 7. A WEAPON CRIME UNDER § 5-138, § 5-140, § 5-141, §
27 5-207(C)(16), § 5-406(A)(3), OR § 5-703(A) OF THE PUBLIC SAFETY ARTICLE;

28 8. AGGRAVATED CRUELTY TO ANIMALS UNDER § 10-606
29 OR § 10-607 OF THE CRIMINAL LAW ARTICLE;

30 9. IMPORTATION OF FENTANYL OR A FENTANYL
31 ANALOGUE UNDER § 5-614(A)(1)(XII) OF THE CRIMINAL LAW ARTICLE;

1 **10. STALKING UNDER § 3-802 OF THE CRIMINAL LAW**
 2 **ARTICLE;**

3 ~~3.~~ **11. A CRIMINAL ACT INVOLVING CIRCUMSTANCES**
 4 **PRESENTING A SUBSTANTIAL AND ONGOING THREAT TO PUBLIC SAFETY OR**
 5 **NATIONAL SECURITY; OR**

6 **12. A CRIME UNDER THE LAWS OF ANOTHER STATE**
 7 **SUBSTANTIALLY EQUIVALENT TO A CRIME LISTED IN ITEMS 1 THROUGH 10 OF THIS**
 8 **ITEM, INVOLVING A FUGITIVE FROM JUSTICE CHARGED WITH A CRIME IN THAT**
 9 **STATE AND SOUGHT UNDER TITLE 9 OF THIS ARTICLE;**

10 **(II) ANALYZE AN IMAGE OR A RECORDING OF AN INDIVIDUAL:**

11 **1. ENGAGED IN ACTIVITY PROTECTED UNDER THE**
 12 **UNITED STATES CONSTITUTION, THE MARYLAND CONSTITUTION, OR THE**
 13 **MARYLAND DECLARATION OF RIGHTS, UNLESS THERE IS REASONABLE SUSPICION**
 14 **TO BELIEVE THAT THE INDIVIDUAL HAS COMMITTED, IS IN THE PROCESS OF**
 15 **COMMITTING, OR IS ABOUT TO COMMIT A CRIME; OR**

16 ~~2.~~ ~~**SUSPECTED OF BEING A JUVENILE WHO IS**~~
 17 ~~**INELIGIBLE TO BE CHARGED WITH A CRIMINAL ACT UNDER § 3-8A-03 OF THE**~~
 18 ~~**COURTS ARTICLE; OR**~~

19 ~~3.~~ **2. WHO IS NOT INTENDED TO BE IDENTIFIED;**

20 **(III) USE FACIAL RECOGNITION TECHNOLOGY TO ANALYZE A**
 21 **SKETCH OR MANUALLY PRODUCED IMAGE;**

22 **(IV) DISCLOSE TO A WITNESS IN THE CRIMINAL INVESTIGATION,**
 23 **PRIOR TO THE WITNESS PARTICIPATING IN A LIVE IDENTIFICATION OR PHOTO**
 24 **ARRAY IDENTIFICATION, THAT A PARTICULAR SUSPECT OR IMAGE OF A SUSPECT**
 25 **WAS IDENTIFIED USING FACIAL RECOGNITION TECHNOLOGY; OR**

26 **(V) USE FACIAL RECOGNITION TECHNOLOGY FOR THE PURPOSE**
 27 **OF LIVE OR REAL-TIME IDENTIFICATION OF AN IMAGE OR A RECORDING.**

28 **(2) (I) ~~AN~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
 29 **PARAGRAPH, AN IMAGE BEING EVALUATED USING FACIAL RECOGNITION**
 30 **TECHNOLOGY MAY BE COMPARED ONLY TO IMAGES CONTAINED IN:**

31 ~~(1)~~ **1. THE DATABASE OF IMAGES OF DRIVER'S LICENSE AND**
 32 **IDENTIFICATION CARD PHOTOS MAINTAINED BY THE MOTOR VEHICLE**

1 ADMINISTRATION OR THE DEPARTMENT OF MOTOR VEHICLES OF ANOTHER STATE;
2 OR

3 ~~(H)~~ 2. A DATABASE OF MUGSHOT PHOTOS MAINTAINED BY A
4 LOCAL, STATE, OR FEDERAL LAW ENFORCEMENT AGENCY OR A LAW ENFORCEMENT
5 AGENCY OF ANOTHER COUNTRY.

6 (II) AN IMAGE BEING EVALUATED USING FACIAL RECOGNITION
7 TECHNOLOGY MAY BE COMPARED TO AN IMAGE CONTAINED IN A DATABASE OTHER
8 THAN A DATABASE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF:

9 1. THE LAW ENFORCEMENT AGENCY CONDUCTING THE
10 INVESTIGATION HAS ENTERED INTO AN AGREEMENT WITH THE ENTITY THAT
11 MAINTAINS THE DATABASE GOVERNING THE METHODS BY WHICH IMAGES IN THE
12 DATABASE ARE COLLECTED; AND

13 2. THE AGREEMENT PROVIDES THAT THE AGREEMENT
14 WILL BE TERMINATED IN THE EVENT THAT THE ENTITY MAINTAINING THE
15 DATABASE COMMITS A MATERIAL BREACH OF THE PROVISIONS GOVERNING THE
16 METHODS BY WHICH IMAGES IN THE DATABASE ARE COLLECTED.

17 (3) BEFORE BEING USED FOR ANY PURPOSE IN RELATION TO A
18 CRIMINAL INVESTIGATION, A RESULT GENERATED BY FACIAL RECOGNITION
19 TECHNOLOGY SHALL BE INDEPENDENTLY VERIFIED BY AN INDIVIDUAL WHO HAS
20 COMPLETED TRAINING ~~AND REQUIRED PROFICIENCY TESTING~~ IN ACCORDANCE
21 WITH § 2-505 OF THIS SUBTITLE.

22 (B) A POLICE OFFICER OR OTHER EMPLOYEE OR AGENT OF A LAW
23 ENFORCEMENT AGENCY MAY NOT USE FACIAL RECOGNITION TECHNOLOGY TO
24 IDENTIFY AN INDIVIDUAL SOLELY BASED ON:

25 (1) THE POLICE OFFICER'S, EMPLOYEE'S, OR AGENT'S PERSONAL
26 INTEREST NOT RELATED TO LEGITIMATE DUTIES OR OBJECTIVES OF THE LAW
27 ENFORCEMENT AGENCY;

28 (2) THE INDIVIDUAL'S POLITICAL OR SOCIAL BELIEFS OR ACTIVITIES;

29 (3) THE INDIVIDUAL'S PARTICIPATION IN LAWFUL ACTIVITIES; OR

30 (4) THE INDIVIDUAL'S RACE, COLOR, RELIGIOUS BELIEFS, SEXUAL
31 ORIENTATION, GENDER, DISABILITY, NATIONAL ORIGIN, OR STATUS AS BEING
32 HOMELESS.

1 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION
2 AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A RESULT GENERATED BY
3 FACIAL RECOGNITION TECHNOLOGY IN VIOLATION OF THIS SECTION AND ALL
4 OTHER EVIDENCE SUBSEQUENTLY DERIVED FROM THE RESULT MAY NOT BE
5 INTRODUCED BY THE STATE FOR ANY PURPOSE IN A CRIMINAL COURT PROCEEDING
6 OR IN A JUVENILE COURT PROCEEDING UNDER TITLE 3, SUBTITLE 8A OF THE
7 COURTS ARTICLE.

8 (2) EVIDENCE DERIVED FROM A RESULT GENERATED IN VIOLATION
9 OF SUBSECTION (A)(1) OF THIS SECTION MAY BE INTRODUCED FOR A PURPOSE
10 DESCRIBED IN § 2-502 OF THIS SUBTITLE IF THE COURT FINDS THAT THE EVIDENCE
11 WOULD OTHERWISE BE SUBJECT TO A LEGALLY VALID EXCEPTION TO THE
12 EXCLUSIONARY RULE.

13 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO ALLOW THE USE
14 OF A RESULT GENERATED USING FACIAL RECOGNITION TECHNOLOGY TO BE
15 INTRODUCED AS EVIDENCE IN A CRIMINAL TRIAL OR IN AN ADJUDICATORY HEARING
16 HELD UNDER § 3-8A-18 OF THE COURTS ARTICLE.

17 2-504.

18 THE STATE SHALL DISCLOSE, IN ACCORDANCE WITH THE MARYLAND RULES
19 REGARDING DISCOVERY, WHETHER FACIAL RECOGNITION TECHNOLOGY HAS BEEN
20 USED IN AN INVESTIGATION RELEVANT TO A CRIMINAL COURT PROCEEDING OR
21 JUVENILE COURT PROCEEDING UNDER TITLE 3, SUBTITLE 8A OF THE COURTS
22 ARTICLE, THE NAME OF EACH FACIAL RECOGNITION SYSTEM USED, A DESCRIPTION
23 AND THE NAMES OF THE DATABASES SEARCHED, AND ALL RESULTS GENERATED
24 FROM THE USE OF THE FACIAL RECOGNITION TECHNOLOGY THAT LED TO FURTHER
25 INVESTIGATIVE ACTION FOR EACH FACIAL RECOGNITION SYSTEM AND FOR EACH
26 DATABASE SEARCHED.

27 2-505.

28 (A) A LAW ENFORCEMENT AGENCY THAT USES OR CONTRACTS FOR THE USE
29 OF FACIAL RECOGNITION TECHNOLOGY SHALL DESIGNATE AN EMPLOYEE OF THE
30 LAW ENFORCEMENT AGENCY TO BE RESPONSIBLE FOR OVERSEEING AND
31 ADMINISTERING THE USE OF FACIAL RECOGNITION TECHNOLOGY IN COMPLIANCE
32 WITH THIS SUBTITLE AS WELL AS APPLICABLE LOCAL LAWS, REGULATIONS, AND
33 POLICIES.

34 (B) (1) ON OR BEFORE OCTOBER 1 EACH YEAR, A LAW ENFORCEMENT
35 AGENCY THAT USES OR CONTRACTS FOR THE USE OF FACIAL RECOGNITION
36 TECHNOLOGY SHALL COMPLETE AN AUDIT TO DETERMINE COMPLIANCE WITH THIS
37 SUBTITLE AS WELL AS APPLICABLE LOCAL LAWS, REGULATIONS, AND POLICIES.

1 **(2) THE RESULTS OF THE AUDIT CONDUCTED UNDER THIS**
2 **SUBSECTION, INCLUDING ANY RECORDS, DATA, PAPERS, OR MATERIALS EVALUATED**
3 **AS PART OF THE AUDIT, SHALL BE:**

4 **(I) MAINTAINED BY THE LAW ENFORCEMENT AGENCY FOR AT**
5 **LEAST 3 YEARS AFTER COMPLETION OF THE AUDIT, AFTER WHICH THE LAW**
6 **ENFORCEMENT AGENCY MAY DESTROY ALL AUDIT MATERIALS; AND**

7 **(II) UNLESS ALL AUDIT MATERIALS HAVE BEEN DESTROYED IN**
8 **ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH, DISCLOSED IF REQUESTED BY:**

9 **1. THE ATTORNEY GENERAL;**

10 **2. THE PUBLIC DEFENDER;**

11 **3. A STATE'S ATTORNEY;**

12 **4. A UNITED STATES ATTORNEY; OR**

13 **5. A DESIGNEE OF AN INDIVIDUAL DESCRIBED IN ITEMS**
14 **1 THROUGH 4 OF THIS ITEM.**

15 **(C) A POLICE OFFICER OR OTHER EMPLOYEE OR AGENT OF A LAW**
16 **ENFORCEMENT AGENCY AUTHORIZED TO USE FACIAL RECOGNITION TECHNOLOGY**
17 **IN THE COURSE OF CRIMINAL INVESTIGATIONS SHALL ANNUALLY COMPLETE**
18 **TRAINING ~~AND PROFICIENCY TESTING~~ ADMINISTERED BY THE DEPARTMENT OF**
19 **PUBLIC SAFETY AND CORRECTIONAL SERVICES UNDER § 2-506 OF THIS SUBTITLE.**

20 **2-506.**

21 **(A) THE DEPARTMENT OF ~~PUBLIC SAFETY AND CORRECTIONAL SERVICES~~**
22 **STATE POLICE, IN CONSULTATION WITH ANY OTHER RELEVANT STATE AGENCY,**
23 **SHALL:**

24 **~~(1)~~ ADOPT AND PUBLISH A MODEL STATEWIDE POLICY REGARDING**
25 **THE USE OF FACIAL RECOGNITION TECHNOLOGY;**

26 **~~(2) DEVELOP AND ADMINISTER A TRAINING PROGRAM AND~~**
27 **~~PROFICIENCY TESTING REGARDING THE USE OF FACIAL RECOGNITION~~**
28 **~~TECHNOLOGY IN THE COURSE OF CRIMINAL INVESTIGATIONS, INCLUDING TRAINING~~**
29 **~~AND TESTING ON CULTURAL DIVERSITY AND IMPLICIT BIAS;~~**

1 ~~(3) REVIEW AND APPROVE A SINGLE FACIAL RECOGNITION~~
2 ~~TECHNOLOGY FOR USE BY LAW ENFORCEMENT AGENCIES IN THE STATE; AND~~

3 ~~(4) PUBLISH ON ITS PUBLIC WEBSITE:~~

4 ~~(I) THE NAME, VERSION, AND VENDOR OF THE FACIAL~~
5 ~~RECOGNITION TECHNOLOGY CURRENTLY APPROVED FOR USE UNDER ITEM (3) OF~~
6 ~~THIS SUBSECTION; AND~~

7 ~~(H) THE NAMES, VERSIONS, AND VENDORS OF ALL FACIAL~~
8 ~~RECOGNITION TECHNOLOGIES THAT THE DEPARTMENT HAS PREVIOUSLY~~
9 ~~APPROVED FOR USE UNDER ITEM (3) OF THIS SUBSECTION.~~

10 (B) A LAW ENFORCEMENT AGENCY MAY NOT USE OR CONTRACT FOR THE
11 USE OF FACIAL RECOGNITION TECHNOLOGY FOR USE IN CRIMINAL INVESTIGATIONS
12 UNLESS:

13 ~~(1) THE USE IS IN ACCORDANCE WITH THE MODEL STATEWIDE POLICY~~
14 ~~REGARDING THE USE OF FACIAL RECOGNITION TECHNOLOGY ADOPTED AND~~
15 ~~PUBLISHED UNDER SUBSECTION (A) OF THIS SECTION; AND~~

16 ~~(2) THE FACIAL RECOGNITION TECHNOLOGY IS CURRENTLY~~
17 ~~APPROVED FOR USE BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~
18 ~~SERVICES UNDER SUBSECTION (A) OF THIS SECTION.~~

19 (C) (1) ON OR BEFORE JUNE 30, 2025, THE DEPARTMENT OF PUBLIC
20 SAFETY AND CORRECTIONAL SERVICES SHALL DEVELOP AND ADMINISTER A
21 TRAINING PROGRAM REGARDING THE USE OF FACIAL RECOGNITION TECHNOLOGY
22 IN THE COURSE OF CRIMINAL INVESTIGATIONS, INCLUDING TRAINING ON
23 CULTURAL DIVERSITY AND IMPLICIT BIAS.

24 (2) IN DEVELOPING THE TRAINING PROGRAM REQUIRED UNDER
25 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL EVALUATE THE
26 AVAILABILITY AND RELEVANCE OF ANY PROFICIENCY TESTING REGARDING THE USE
27 OF FACIAL RECOGNITION TECHNOLOGY IN THE COURSE OF CRIMINAL
28 INVESTIGATIONS.

29 2-507.

30 THIS SUBTITLE MAY NOT BE CONSTRUED TO RESTRICT THE USE OF FACIAL
31 RECOGNITION TECHNOLOGY FOR THE PURPOSE OF:

1 (1) IDENTIFYING A MISSING OR DECEASED PERSON OR A PERSON WHO
2 IS INCAPACITATED AND UNABLE TO OTHERWISE PROVIDE THE PERSON'S OWN
3 IDENTITY;

4 (2) REDACTING A RECORDING OR AN IMAGE FOR RELEASE OR
5 DISCLOSURE TO PROTECT THE PRIVACY OF AN INDIVIDUAL DEPICTED IN A
6 RECORDING OR AN IMAGE;

7 (3) FORENSIC ANALYSIS OF ELECTRONIC MEDIA SEIZED BY LAW
8 ENFORCEMENT IN RELATION TO A SPECIFIC INVESTIGATION IF THE PERSON
9 IDENTIFIED IN THE ELECTRONIC MEDIA IS NOT THE SUBJECT OF CRIMINAL
10 CHARGES RESULTING FROM THE FORENSIC ANALYSIS;

11 (4) ENHANCING SECURITY SYSTEMS FOR PREVENTING
12 UNAUTHORIZED ACCESS TO INFORMATION, GOODS, MATERIALS, AREAS, OR OTHER
13 PROPERTIES UNDER THE CUSTODY OR CARE OF A LAW ENFORCEMENT AGENCY; OR

14 (5) CONDUCTING OTHERWISE LEGITIMATE ACTIVITY UNRELATED TO
15 A CRIMINAL INVESTIGATION.

16 **2-508.**

17 (A) A LAW ENFORCEMENT AGENCY THAT USES FACIAL RECOGNITION
18 TECHNOLOGY SHALL ADOPT AND MAINTAIN A USE AND DATA MANAGEMENT POLICY.

19 (B) A LAW ENFORCEMENT AGENCY THAT DEVELOPS A POLICY UNDER
20 SUBSECTION (A) OF THIS SECTION SHALL POST A COPY OF THE POLICY ON THE
21 AGENCY'S PUBLIC WEBSITE.

22 (C) A LAW ENFORCEMENT AGENCY THAT CONTRACTS FOR USE OF A
23 NON-GOVERNMENT FACIAL RECOGNITION SYSTEM SHALL DISCLOSE ON ITS PUBLIC
24 WEBSITE THE NAME OF THE SYSTEM AND THE NAMES AND A DESCRIPTION OF THE
25 DATABASES SEARCHED.

26 **2-509.**

27 A PERSON MAY BRING A CIVIL ACTION AGAINST A LAW ENFORCEMENT AGENCY
28 TO COMPEL COMPLIANCE WITH THIS SUBTITLE.

29 **2-510.**

30 (A) ON OR BEFORE FEBRUARY 1 EACH YEAR, A LAW ENFORCEMENT AGENCY
31 USING OR CONTRACTING FOR THE USE OF FACIAL RECOGNITION TECHNOLOGY

1 SHALL PREPARE AND PUBLISH AN ANNUAL REPORT THAT DISCLOSES INFORMATION
2 FOR THE PRIOR CALENDAR YEAR, INCLUDING:

3 ~~(1) THE TOTAL NUMBER OF FACIAL RECOGNITION SEARCHES~~
4 ~~PERFORMED BY THE LAW ENFORCEMENT AGENCY AND THE TYPE OF CRIME OR~~
5 ~~INCIDENT ASSOCIATED WITH EACH USE;~~

6 ~~(2) THE TOTAL NUMBER OF POSSIBLE MATCHES RETURNED;~~

7 ~~(3) ANY DATA BREACHES OR UNAUTHORIZED USES OF FACIAL~~
8 ~~RECOGNITION TECHNOLOGY UNDER THE LAW ENFORCEMENT AGENCY'S CONTROL;~~

9 ~~(4) THE EXTENT OF THE USE OF THE FACIAL RECOGNITION~~
10 ~~TECHNOLOGY;~~

11 ~~(5) A DESCRIPTION OF THE PURPOSE OF THE FACIAL RECOGNITION~~
12 ~~TECHNOLOGY, INCLUDING:~~

13 ~~(I) WHETHER RESULTS FROM THE FACIAL RECOGNITION~~
14 ~~TECHNOLOGY WERE USED TO SUPPORT A DECISION OR AS THE SOLE BASIS FOR~~
15 ~~MAKING A DECISION; AND~~

16 ~~(H) THE INTENDED BENEFITS OF THE USE OF THE FACIAL~~
17 ~~RECOGNITION TECHNOLOGY, INCLUDING ANY DATA OR RESEARCH~~
18 ~~DEMONSTRATING THE INTENDED BENEFITS;~~

19 ~~(6) A DESCRIPTION OF THE GENERAL CAPABILITIES AND~~
20 ~~LIMITATIONS OF THE FACIAL RECOGNITION TECHNOLOGY, INCLUDING~~
21 ~~REASONABLY FORESEEABLE CAPABILITIES OUTSIDE THE SCOPE OF THE CURRENT~~
22 ~~USE OF THE FACIAL RECOGNITION TECHNOLOGY;~~

23 ~~(7) THE TYPE OF DATA INPUTS THAT THE FACIAL RECOGNITION~~
24 ~~TECHNOLOGY USED;~~

25 ~~(8) THE TYPE OF RESULTS THAT THE FACIAL RECOGNITION~~
26 ~~TECHNOLOGY GENERATED; AND~~

27 ~~(9) ANY KNOWN OR REASONABLY SUSPECTED VIOLATIONS OF THE~~
28 ~~MODEL STATEWIDE POLICY OR USE AND DATA MANAGEMENT POLICY, INCLUDING~~
29 ~~COMPLAINTS ALLEGING VIOLATIONS.~~

30 (1) THE NAME OF EACH FACIAL RECOGNITION SYSTEM AND THE
31 NAMES AND A DESCRIPTION OF THE DATABASES SEARCHED;

1 **(2) FOR EACH FACIAL RECOGNITION SYSTEM, THE TOTAL NUMBER OF**
2 **FACIAL RECOGNITION SEARCHES PERFORMED BY THE LAW ENFORCEMENT AGENCY**
3 **AND THE TYPE OF CRIME OR INCIDENT ASSOCIATED WITH EACH USE;**

4 **(3) THE TOTAL NUMBER OF POSSIBLE MATCHES RETURNED THAT LED**
5 **TO FURTHER INVESTIGATIVE ACTION FOR EACH FACIAL RECOGNITION SYSTEM AND**
6 **FOR EACH DATABASE SEARCHED; AND**

7 **(4) ANY DATA BREACHES OR UNAUTHORIZED USES OF FACIAL**
8 **RECOGNITION TECHNOLOGY UNDER THE LAW ENFORCEMENT AGENCY’S CONTROL.**

9 **(B) ON OR BEFORE MAY 1 EACH YEAR, A LAW ENFORCEMENT AGENCY**
10 **REQUIRED TO PREPARE A REPORT UNDER SUBSECTION (A) OF THIS SECTION SHALL**
11 **SUBMIT THE REPORT TO THE GOVERNOR’S OFFICE OF CRIME PREVENTION,**
12 **YOUTH, AND VICTIM SERVICES.**

13 **(C) ON OR BEFORE OCTOBER 1 EACH YEAR, THE GOVERNOR’S OFFICE OF**
14 **CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL SUBMIT TO THE**
15 **GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT**
16 **ARTICLE, THE GENERAL ASSEMBLY A REPORT CONSISTING OF THE INFORMATION**
17 **REPORTED BY LAW ENFORCEMENT AGENCIES UNDER SUBSECTION (B) OF THIS**
18 **SECTION, DISAGGREGATED BY AGENCY.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.