

1 AN ACT relating to use of facial recognition technology.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Facial recognition technology" means the use of algorithmic comparison*  
7 *of images of an individual's facial features for the purposes of verification*  
8 *or identification;*

9 *(b) "Law enforcement agency" means any:*

10 *1. Public agency that employs a police officer as defined in KRS 15.420*  
11 *or a special law enforcement officer as defined in KRS 61.900;*

12 *2. Public agency that is composed of or employs other public peace*  
13 *officers; and*

14 *3. Elected or appointed peace officer who is authorized to exercise*  
15 *powers of a peace officer as defined in KRS 446.010; and*

16 *(c) "Model facial recognition technology policy" means the model policy*  
17 *developed and published under this section regarding the use of facial*  
18 *recognition technology.*

19 *(2) A working group on facial recognition technology is hereby created and shall be*  
20 *attached to the Justice and Public Safety Cabinet for administrative purposes.*

21 *The working group shall be chaired by the secretary of the Justice and Public*  
22 *Safety Cabinet or his or her designee and composed of representatives from the*  
23 *following organizations as nominated by the secretary and appointed by the*  
24 *Governor:*

25 *(a) The Kentucky Association of Chiefs of Police;*

26 *(b) The Department of Criminal Justice Training;*

27 *(c) The Kentucky League of Cities;*

1 (d) The Kentucky Association of Counties; and

2 (e) The Kentucky Sheriff's Association.

3 (3) On or before January 1, 2024, the working group established pursuant to  
4 subsection (2) of this section shall create and make publicly available a model  
5 policy for use by law enforcement agencies, which shall:

6 (a) Specify the authorized uses of facial recognition technology consistent with  
7 the law, including but not limited to:

8 1. How search results using facial recognition technology relate to  
9 establishing probable cause for arrests; and

10 2. The prohibition of using facial recognition technology to identify a  
11 person participating in constitutionally protected activities in public  
12 spaces unless there is probable cause to believe that an offense has  
13 been committed;

14 (b) Specify requirements for persons within a law enforcement agency that are  
15 authorized to use facial recognition technology;

16 (c) Require a law enforcement agency to specify a process for the agency to  
17 document instances in which facial recognition technology is used;

18 (d) Provide procedures for the confirmation of any initial findings generated by  
19 facial recognition technology by a secondary examiner;

20 (e) Specify data integrity and retention policies applicable to the data collected  
21 by the organization, including processes that address:

22 1. Maintenance and updating of records used;

23 2. A routine audit schedule to ensure compliance with the policy;

24 3. The length of time the organization will keep the data; and

25 4. The processes by which data will be deleted;

26 (f) Specify data security measures applicable to the law enforcement agency's  
27 use of facial recognition technology, including:

- 1           1. How data collected will be securely stored and accessed; and
- 2           2. Rules and procedures for sharing data with other entities, which
- 3           ensure that those entities comply with the sharing agency's policy as
- 4           part of the data-sharing agreement;
- 5           (g) Specify training procedures and processes to ensure all personnel who
- 6           utilize facial recognition technology or access its data are knowledgeable
- 7           about and able to ensure compliance with the policy;
- 8           (h) Specify a process that requires a law enforcement agency utilizing facial
- 9           recognition technology to compare a publicly available or lawfully acquired
- 10           image against a database of publicly available or lawfully acquired images;
- 11           (i) Specify a minimum accuracy standard for face matches in all demographic
- 12           groups to ensure nondiscrimination against any demographic group with
- 13           reference to a Face Recognition Vendor Test conducted by the National
- 14           Institute of Standards and Technology;
- 15           (j) Provide a specific mechanism to produce a record of prior uses of facial
- 16           recognition technology that can be used to audit and verify images and
- 17           information used to make a match of a person; and
- 18           (k) Provide a process that addresses the privacy of persons by excluding,
- 19           redacting, blurring, or otherwise obscuring nudity or sexual conduct
- 20           involving any identifiable person.
- 21           (4) A law enforcement agency that uses facial recognition technology shall have a
- 22           use policy in place prior to using the technology. A law enforcement agency shall
- 23           file a full copy of its policy or any revision of its policy with the Justice and Public
- 24           Safety Cabinet within thirty (30) days of the adoption or revision.