

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1091

Introduced by Vargas, 7.

Read first time January 21, 2020

Committee:

- 1 A BILL FOR AN ACT relating to privacy; to adopt the Face Surveillance
- 2 Privacy Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Face Surveillance Privacy Act.

3 Sec. 2. The Legislature finds and declares that:

4 (1) Face surveillance poses unique and significant threats to the
5 civil rights and civil liberties of the people of Nebraska;

6 (2) Face surveillance technology has a history of being far less
7 accurate in identifying the faces of women, young people, and people of
8 color. Such inaccuracies place certain persons at a higher risk of
9 harmful false positive identifications. Many of the databases to which
10 face surveillance technology is applied are plagued by racial and other
11 biases, which generate copycat biases in face surveillance data;

12 (3) The broad application of face surveillance in public spaces is
13 the functional equivalent of requiring every person to carry and display
14 a personal photo identification card at all times, which constitutes an
15 unacceptable mass violation of privacy;

16 (4) The public use of face surveillance can chill the exercise of
17 constitutionally protected free speech; and

18 (5) The benefits of using face surveillance, which are few and
19 speculative, are greatly outweighed by its harms, which are definite and
20 substantial.

21 Sec. 3. For purposes of the Face Surveillance Privacy Act:

22 (1) Face surveillance means an automated or semi-automated process
23 that assists in identifying an individual, capturing information about an
24 individual, based on the physical characteristics of an individual's
25 face;

26 (2) Face surveillance system means any computer software or
27 application that performs face surveillance; and

28 (3) Governmental entity means a branch, department, or agency of
29 this state or any of its political subdivisions, any official or employee
30 thereof, or any person acting as an agent for any of such entities.

31 Sec. 4. It shall be unlawful for any governmental entity to obtain,

1 retain, access, or use:

2 (1) Any face surveillance system; or

3 (2) Any information obtained from a face surveillance system.

4 Sec. 5. (1) No data collected or derived from any use of face
5 surveillance in violation of section 4 of this act and no evidence
6 derived therefrom may be received in evidence in any trial, hearing, or
7 other proceeding in or before any court, grand jury, department, officer,
8 agency, regulatory body, legislative committee, or other authority
9 subject to the jurisdiction of this state, including a political
10 subdivision thereof.

11 (2) Data collected or derived from any use of face surveillance in
12 violation of section 4 of this act shall be considered unlawfully
13 obtained and shall be deleted upon discovery.

14 Sec. 6. (1) Any violation of section 4 of this act constitutes an
15 injury and any person aggrieved by such violation may bring a civil
16 action for appropriate relief against the governmental entity committing
17 such violation.

18 (2) In a civil action under this section, appropriate relief
19 includes:

20 (a) Such preliminary and other equitable or declaratory relief as
21 may be appropriate;

22 (b) Actual damages; and

23 (c) Reasonable attorney's fees and other litigation costs reasonably
24 incurred.

25 (3) This section does not authorize civil actions against individual
26 government officials or employees in their individual capacities.