

SENATE BILL 2286

By Bell

AN ACT to amend Tennessee Code Annotated, Title 38;
Title 39 and Title 40, relative to face recognition.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 1, is amended by adding the following as a new part:

38-1-801.

(a) As used in this part:

(1) "Face recognition system" means any computer software or application that performs face recognition; and

(2) "Face recognition technology" means an automated or semi-automated process that assists in identifying an individual or capturing information about an individual, based on the physical characteristics of an individual's face.

(b) A state or local law enforcement agency or law enforcement officer shall not obtain, retain, access, or use any face recognition system or any information obtained from a face recognition system. This subsection (b) does not prohibit a law enforcement agency or law enforcement officer from lawfully assisting a federal law enforcement agency in a joint law enforcement activity during which the federal law enforcement agency uses federal face recognition technology. A state or local law enforcement agency or law enforcement officer shall not request, encourage, suggest, or otherwise initiate access to information or data from or use of an out-of-state face recognition system.

38-1-802.

(a) Any data or information collected or derived from any use of face recognition technology in violation of § 38-1-801 is inadmissible in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other state or local authority.

(b) Evidence derived from data or information collected from any use of face recognition technology in violation of § 38-1-801 is inadmissible in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other state or local authority.

(c) Data or information collected using face recognition technology or derived from such data or information in violation of § 38-1-801 shall be considered unlawfully obtained, and must be irretrievably deleted from any document in possession of the state or in any court file or filing upon discovery.

38-1-803.

(a) A person aggrieved by a violation of this part may file for injunctive relief, declaratory relief, or writ of mandamus in any court of competent jurisdiction to enforce this part. An action instituted under this section must be brought against the violating law enforcement agency or any other governmental agency with possession, custody, or control of data or information subject to this part, if necessary to effectuate compliance with this part.

(b) A person who has been subjected to face recognition technology in violation of § 38-1-801, or about whom information has been obtained, retained, accessed, or used in violation of § 38-1-802, may file an action in any court of competent jurisdiction against the law enforcement agency that used the face recognition system or the agency that obtained, retained, accessed, or used the information and is entitled to recover actual damages.

(c) A court shall award costs and reasonable attorneys' fees to a plaintiff who is the prevailing party in an action brought under this section.

38-1-804.

A violation of this part by a law enforcement officer shall result in consequences that may include retraining, suspension, or termination, subject to due process requirements.

SECTION 2. This act takes effect July 1, 2022, the public welfare requiring it.