

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, unless used for the sole purpose of authentication in order*
9 *to access a secure device or secure premises;*

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

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

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

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

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

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

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

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

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

1 (c) The Kentucky League of Cities;

2 (d) The Kentucky Association of Counties; and

3 (e) The Kentucky Sheriff's Association.

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

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

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

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

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

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

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

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

23 1. Maintenance and updating of records used;

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

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

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

27 (f) Specify data security measures applicable to the law enforcement agency's

- 1 use of facial recognition technology, including:
- 2 1. How data collected will be securely stored and accessed; and
- 3 2. Rules and procedures for sharing data with other entities, which
4 ensure that those entities comply with the sharing agency's policy as
5 part of the data-sharing agreement;
- 6 (g) Specify training procedures and processes to ensure all personnel who
7 utilize facial recognition technology or access its data are knowledgeable
8 about and able to ensure compliance with the policy;
- 9 (h) Specify a process that requires a law enforcement agency utilizing facial
10 recognition technology to compare a publicly available or lawfully acquired
11 image against a database of publicly available or lawfully acquired images;
- 12 (i) Specify a minimum accuracy standard for face matches in all demographic
13 groups to ensure nondiscrimination against any demographic group with
14 reference to a Face Recognition Vendor Test conducted by the National
15 Institute of Standards and Technology;
- 16 (j) Provide a specific mechanism to produce a record of prior uses of facial
17 recognition technology that can be used to audit and verify images and
18 information used to make a match of a person; and
- 19 (k) Provide a process that addresses the privacy of persons by excluding,
20 redacting, blurring, or otherwise obscuring nudity or sexual conduct
21 involving any identifiable person.
- 22 (4) A law enforcement agency that uses facial recognition technology shall have a
23 use policy in place prior to using the technology. A law enforcement agency shall
24 file a full copy of its policy or any revision of its policy with the Justice and Public
25 Safety Cabinet within thirty (30) days of the adoption or revision.
- 26 (5) This section shall not apply to a generally available consumer product that
27 includes facial recognition technology, provided that the facial recognition

1 *technology is intended only for personal or household use. A law enforcement*
2 *agency shall not use facial recognition technology under this subsection for law*
3 *enforcement purposes.*