

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.