

1 AN ACT relating to violations of privacy.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
4 READ AS FOLLOWS:

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

6 *(a) "Identification device" means any item, application, or product that is*
7 *passively or actively capable of transmitting personal information, including*
8 *but not limited to devices using radio frequency technology or any*
9 *electronic device used to track, harass, or download information without*
10 *permission;*

11 *(b) "Introduce" or "Introduction" means subcutaneous injection, inhalation,*
12 *ingestion, or placement on or within the human body by other means;*

13 *(c) "Personal information" means any of the following data elements to the*
14 *extent they are alone or in conjunction with any other information that can*
15 *identify an individual:*

16 *1. Email, Internet protocol, or website address;*

17 *2. Date of birth;*

18 *3. Operator's license number or personal identification card number;*

19 *4. Any unique personal identifier number contained or encoded in an*
20 *operator's license or personal identification card issued;*

21 *5. Bank, credit card, or other financial institution account number;*

22 *6. Any unique personal identifier contained or encoded in a health*
23 *insurance, health benefit, or benefit card, or record issued in*
24 *conjunction with any government-supported aid program;*

25 *7. Religion;*

26 *8. Ethnicity or nationality;*

27 *9. Photograph;*

1 10. Fingerprint or other biometric identifier;

2 11. Social Security number; or

3 12. Any other unique personal identifier;

4 (d) "Require, coerce, or compel" means any physical violence, threat,
5 intimidation, or retaliation, or the conditioning of any private or public
6 benefit or care on consent to implantation, including employment,
7 promotion, or other employment benefit, or any means that cause a
8 reasonable person of ordinary susceptibilities to acquiesce to implantation
9 when he or she otherwise would not, but does not include legitimate medical
10 uses for which the patient or his or her guardian or parent has consented;
11 and

12 (e) "Subcutaneous" means existing, performed, or introduced under the skin.

13 (2) A person shall not:

14 (a) Require, coerce, or compel any other individual to undergo the introduction
15 of an identification device; or

16 (b) Introduce an identification device without the consent of the person to
17 whom the identification device is introduced.

18 (3) A person to whom an identification device is introduced in violation of subsection
19 (2) of this section may bring a civil action for actual damages, compensatory
20 damages, punitive damages, injunctive relief, any combination of those, or any
21 other appropriate relief. The court may also grant a prevailing plaintiff
22 reasonable attorney's fees and litigation costs, including but not limited to expert
23 witness fees and expenses as part of the costs.

24 (4) In addition to the damages and relief authorized in subsection (3) of this section,
25 punitive damages may also be awarded upon proof of the defendant's malice,
26 oppression, fraud, or duress in requiring, coercing, or compelling the plaintiff to
27 undergo the introduction of an identification device.

- 1 (5) An action brought under this section shall be commenced within five (5) years of
2 the date upon which the identification device was introduced, or within five (5)
3 years of the date the introduction was discovered by the person.
- 4 (6) Any restitution paid by the defendant to the victim shall be credited against any
5 judgment, award, or settlement obtained under this section.
- 6 (7) This section shall be liberally construed so as to protect privacy and bodily
7 integrity.
- 8 (8) Actions brought under this section are independent of any other actions,
9 remedies, or procedures that may be available to an aggrieved party under any
10 other law.
- 11 (9) This section shall not in any way modify existing statutory or case law regarding
12 the rights of parents or guardians, the rights of children or minors, or the rights
13 of dependent adults.