**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑1‑250 SO AS TO PROVIDE CERTAIN TERMS AND THEIR DEFINITIONS, TO PROVIDE A LAW ENFORCEMENT AGENCY OR OFFICER SHALL NOT INSTALL, ACTIVATE, OR USE A BIOMETRIC SURVEILLANCE SYSTEM IN CONNECTION WITH AN OFFICER’S CAMERA OR DATA COLLECTED BY AN OFFICER’S CAMERA, AND TO PROVIDE A PENALTY FOR A VIOLATION OF THIS SECTION.

Whereas, South Carolinians value privacy as an essential element of their individual freedom, and are guaranteed a right to privacy under the United States and South Carolina Constitutions; and

Whereas, facial recognition and other biometric surveillance technology pose unique and significant threats to the civil rights and civil liberties of residents and visitors; and

Whereas, the use of facial recognition and other biometric surveillance is the functional equivalent of requiring every person to show a personal photographic identification card at all times in violation of recognized constitutional rights. This technology also allows people to be tracked without consent. It would also generate massive databases about law‑abiding South Carolinians, and may chill the exercise of free speech in public places; and

Whereas, facial recognition and other biometric surveillance technology has been demonstrated repeatedly to misidentify women, young people, and people of color and to create an elevated risk of harmful “false positive” identifications; and

Whereas, facial and other biometric surveillance would corrupt the core purpose of officer‑worn, body‑worn cameras by transforming those devices from transparency and accountability tools into roving surveillance systems; and

Whereas, the use of facial recognition and other biometric surveillance would impact the civil rights and civil liberties of persons disproportionately who live in highly policed communities. Its use would also diminish effective policing and public safety by discouraging people in these communities, including victims of crime, undocumented persons, people with unpaid fines and fees, and those with prior criminal history from seeking police assistance or from assisting the police. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 23, of the 1976 Code is amended by adding:

“Section 23‑1‑250. (A) As contained in this section:

(1) ‘Biometric data’ means a physiological, biological, or behavioral characteristic that can be used, singly or in combination with each other or with other information, to establish individual identity.

(2) ‘Biometric surveillance system’ means any computer software or application that performs facial recognition or other biometric surveillance.

(3) ‘Facial recognition or other biometric surveillance’ means either of the following, alone or in combination:

(a) an automated or semiautomated process that captures or analyzes biometric data of an individual to identify or assist in identifying an individual; or

(b) an automated or semiautomated process that generates, or assists in generating, surveillance information about an individual based on biometric data.

(4) ‘Facial recognition or other biometric surveillance’ does not include the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure outside the law enforcement agency to protect the privacy of a subject depicted in the recording, if the process does not generate or result in the retention of any biometric data or surveillance information.

(5) ‘Law enforcement agency’ has the same meaning as contained in Section 17‑28‑20(8).

(6) ‘Law enforcement officer’ means an officer, deputy, employee, or agent of a law enforcement agency, and a peace officer.

(7) ‘Officer camera’ means a body‑worn camera or similar device that records or transmits images or sound and is attached to the body or clothing of, or carried by, a law enforcement officer.

(8) ‘Surveillance information’ means either of the following, alone or in combination:

(a) any information about a known or unknown individual, including, but not limited to, a person’s name, date of birth, gender, or criminal background; and

(b) any information derived from biometric data, including, but not limited to, assessments about an individual’s sentiment, state of mind, or level of dangerousness.

(9) ‘Use’ means either of the following, alone or in combination:

(a) the direct use of a biometric surveillance system by a law enforcement officer or law enforcement agency; or

(b) a request or agreement by a law enforcement officer or law enforcement agency that another law enforcement agency or other third party use a biometric surveillance system on behalf of the requesting officer or agency.

(B) A law enforcement agency or law enforcement officer shall not, nor direct a third party to, install, activate, or use any biometric surveillance system, including, but not limited to, in connection with an officer’s camera or any information collected by an officer’s camera.

(C) No surveillance information secured in violation of this section may be offered or admitted as evidence in any trial, hearing, or proceedings of any kind in any court of competent jurisdiction. In addition to any evidentiary rulings, or other sanctions, penalties, or remedies provided by law, a person may bring an action for equitable or declaratory relief in a court of competent jurisdiction against a law enforcement agency that violates this section.”

SECTION 2. This act takes effect upon approval by the Governor.

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