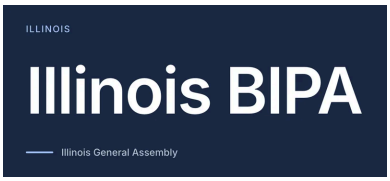
SmartSuite

Framework / Privacy / Global Privacy Regulations

Biometric Information Privacy Act, 740 ILCS 14 (Public Act 95-994, effective October 3, 2008, as amended by Public Act 103-769)

Illinois BIPA (740 ILCS 14) requires written notice and a release before collecting biometrics, a public retention policy and limited disclosure, with private suits and fixed damages.



What it is

The Illinois Biometric Information Privacy Act (BIPA, 740 ILCS 14) has applied since October 3, 2008 to every private entity that collects, stores or uses a person's biometric identifiers or biometric information in Illinois. Each such entity must give written notice, obtain a written release before collection and publish a retention and destruction policy. It must also refrain from selling or profiting from the data, limit disclosure and protect the data with reasonable care (Section 15). Public Act 95-994 took effect upon becoming law (Section 99); Public Act 103-769, effective August 2, 2024, amended Sections 10 and 20.

At a glance

PUBLISHER Illinois General Assembly; enforced through private actions in Illinois circuit courts and federal supplemental claims (Section 20)	TYPE Regulation	VERSION 740 ILCS 14 (Public Act 95-994), as amended by Public Act 103-769 (Senate Bill 2979), effective August 2, 2024
EFFECTIVE October 3, 2008 (Section 99: effective upon becoming law); Public Act 103-769 amendments from August 2, 2024	DOMAIN Privacy	FAMILY Global Privacy Regulations
REGION Illinois	ADOPTION MODEL Regulatory Compliance	IMPLEMENTATION COMPLEXITY Medium

Source: ilga.gov/Legislation/ILCS/Articles?ActID=3004&ChapterID=57

Why it matters

- **Notice and release before collection** Section 15(b) requires written notice that a biometric is being collected or stored, written notice of the specific purpose and length of term, and a written release before any identifier or information is obtained.
- **A public retention and destruction policy** Section 15(a) requires a written policy, available to the public, with a retention schedule and guidelines for permanent destruction when the initial purpose is satisfied or within 3 years of the individual's last interaction, whichever occurs first.
- **No profit, limited disclosure** Section 15(c) forbids selling, leasing, trading or otherwise profiting from biometrics; Section 15(d) allows disclosure only with consent, to complete a transaction the subject requested, when required by law or under a warrant or subpoena.

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How SmartSuite supports BIPA (740 ILCS 14)

Biometric Use Case Inventory (Section 10)

Record each system or process that collects retina or iris scans, fingerprints, voiceprints or hand or face geometry, the identifiers and information involved, and the population (employees, customers, visitors).

Notice and Written Release Records (Section 15(b))

Store the written notice of collection, the stated purpose and length of term, and the written release or electronic signature for each subject before the first scan.

Retention Schedule and Destruction (Section 15(a))

Publish the retention policy, track each subject's last interaction, and evidence permanent destruction when the purpose is satisfied or at 3 years, whichever comes first.

Disclosure Log (Section 15(c) and (d))

Log every disclosure of biometrics with its basis (consent, requested transaction, legal requirement, warrant or subpoena) and confirm nothing is sold, leased or traded.

Standard of Care Evidence (Section 15(e))

Link the access, encryption and transmission controls applied to biometrics and show they match or exceed those for other confidential and sensitive information.

Vendor Oversight

Manage time clock, access control and identity vendors that receive biometrics in Third Party Risk Management, including their own retention and destruction commitments.

Common framework mappings

SOC 2 | CCPA/CPRA | GDPR | HIPAA | ISO 27701 | NIST Privacy Framework v1.0 | NIST 800-53 Rev.5 | PCI DSS 4.0.1

Official resources

Public Act 95-0994, Biometric Information Privacy Act (Illinois General Assembly)

The enacted text of BIPA as Public Act 95-0994, effective October 3, 2008.

ilga.gov/Legislation/publicacts/view/095-0994

Frequently asked questions

Who must comply with the Illinois Biometric Information Privacy Act?

Any private entity, which Section 10 defines as any individual, partnership, corporation, limited liability company, association or other group however organized, that collects, captures, purchases, receives through trade, possesses, stores, transmits or discloses biometric identifiers or biometric information. State and local government agencies and the Illinois courts are not private entities, Section 25(e) excludes contractors and agents working for a public body, and Section 25(c) excludes financial institutions and affiliates subject to Title V of the Gramm-Leach-Bliley Act in any manner.

What counts as a biometric identifier under BIPA?

Section 10 lists five: a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. It excludes writing samples, written signatures, photographs, human biological samples used for valid scientific testing, demographic data, tattoo and physical descriptions, donated organs and tissue, blood or serum stored for transplants, materials regulated under the Genetic Information Privacy Act, information captured from a patient in a health care setting or used for HIPAA treatment, payment or operations, and X-rays and other diagnostic images. Biometric information is any information based on a biometric identifier that is used to identify an individual.

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What must a private entity do before collecting a biometric?

Section 15(b) requires three things before any identifier or information is obtained: written notice to the subject or legally authorized representative that a biometric is being collected or stored, written notice of the specific purpose and length of term for which it is collected, stored and used, and a written release executed by the subject. A written release means informed written consent, an electronic signature or, in employment, a release executed as a condition of employment (Section 10). Section 15(a) separately requires a written, publicly available retention and destruction policy.

How long may biometrics be kept, and who may receive them?

Section 15(a) requires permanent destruction when the initial purpose for collection has been satisfied or within 3 years of the individual's last interaction with the entity, whichever occurs first, following a published retention schedule, unless a valid warrant or subpoena requires retention. Section 15(c) forbids selling, leasing, trading or otherwise profiting from biometrics, and Section 15(d) allows disclosure only with the subject's consent, to complete a financial transaction the subject requested or authorized, when state or federal law or a municipal ordinance requires it, or under a valid warrant or subpoena.

What are the damages under BIPA, and what did the 2024 amendment change?

Section 20(a) gives any person aggrieved by a violation a right of action in an Illinois circuit court or as a supplemental claim in federal district court, with recovery for each violation of liquidated damages of $1,000 or actual damages for a negligent violation, $5,000 or actual damages for an intentional or reckless violation, reasonable attorneys' fees and costs including expert witness fees, and other relief including an injunction. Public Act 103-769, effective August 2, 2024, added Sections 20(b) and (c): collecting the same biometric from the same person by the same method more than once is a single violation of Section 15(b), and disclosing it to the same recipient more than once is a single violation of Section 15(d), each with at most one recovery. The amendment answered Cothron v. White Castle System, Inc., 2023 IL 128004, in which the Illinois Supreme Court held that a claim accrues with each scan or transmission.

License included / downloadable: Yes The Act and its Public Acts are published free of charge by the Illinois General Assembly on ilga.gov; the platform links to the official compiled statutes.

Full framework page and mappings: smartsuite.com/frameworks/us-illinois-biometric-information-privacy-act-bipa