FROM

NAME & TITLE	Laura Larsen, Budget Director
AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 469, City Hall
SUBJECT	City Council Bill 23-0379 – Facial Recognition Technology

CITY of BALTIMORE

MEMO

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

November 14, 2023November 14, 2023

Position: Does Not Oppose

The Department of Finance is herein reporting on City Council Bill 23-0379, Facial Recognition Technology, the purpose of which is to regulate the use of facial recognition technology; requiring possessors of data recovered from facial recognition technology to develop a certain policy regarding retention and destruction of data; establishing certain penalties; defining certain terms; and generally relating to the use of facial recognition technology.

Background

This legislation develops rules and regulations for both city agencies and private entities surrounding the retention of facial recognition data, distribution of data, consent for distribution of data, and disclosure of data. It also develops more detailed use regulations of facial recognition data by the Baltimore Police Department, including setting standards and system requirements around the collection of data as well as well as retention, oversight, and reporting requirements.

Facial recognition software is a growing form of technology that has seen marked advancements in recent years. These advancements have allowed law enforcement agencies to more reliably use this technology to solve various crimes. With additional government oversight, the National Institute for Standards and Technology (NIST), part of the United States Department of Commerce, supports technological advancement of these resources through the development of standards across the industry and the evaluation of algorithms in use by developers.

Similar legislation has been previously introduced both in the city and the state. The Baltimore City Council previously enacted Ordinance 21-038, Surveillance Technology in Baltimore, which banned the use of facial recognition technology from June 2021 to December 2022. In 2023 the Maryland General Assembly introduced HB223/SB192, Criminal Procedure - Facial Recognition Technology - Requirements, Procedures, and Prohibitions which would have established requirements, procedures, and prohibitions governing the use of facial recognition technology by law enforcement agencies. This legislation was ultimately not passed during the 2023 session.

Fiscal Impact

There is not expected to be any immediate fiscal impact from this legislation. The legislation regulates how City agencies, and specifically the Baltimore Police Department, can utilize facial recognition software

moving forward. The Bureau of Procurement within the Department of Finance confirmed that there have been no new procurements this year which use this type of technology since last year's hearing.

Other Considerations

While there are no immediate fiscal impacts from the regulations proposed in this legislation, there could be future fiscal impacts if a City agency does seek to procure software using this technology. This would be dependent on whether a company could provide the service without additional configuration costs as required by Baltimore City Code.

The proposed legislation would also allow citizens and employees to seek injunctive relief in a court of competent jurisdiction if a person is subject to a violation of the Code or is harmed by improper use of recognition technology. This could lead to an additional financial liability for the City should a violation ever occur.

Conclusion

While there is no direct fiscal impact from this legislation, the Department of Finance defers to end user agencies on any potential operational impacts and the Department of Law on the legality of any such regulations.

For the reasons stated above, the Department of Finance does not oppose City Council Bill 23-0379.

cc: Michael Moiseyev
Nina Themelis