



**CITY COUNCIL BILL: 23-0379**  
**BILL REPORT**  
**FACIAL RECOGNITION TECHNOLOGY**

**TO:** The Honorable Nick Mosby, President, Baltimore City Council  
**FROM:** Dana Petersen Moore, Director, Office of Equity and Civil Rights  
**THRU:** Nina Themelis, Director, Mayor's Office of Government Relations  
**ANALYST:** Ty'lor Schnella, Leg. Liaison & Policy Analyst, Office of Equity and Civil Rights  
**DATE:** 11/14/2023  
**POSITION:** **Favorable with amendments**

### **Introduction**

The Office of Equity and Civil Rights 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**

Facial recognition technology has rapidly advanced in recent years, becoming a powerful tool with various applications ranging from security and law enforcement to commercial and consumer uses. This technology involves the automated identification and verification of individuals based on their facial features, often utilizing algorithms and artificial intelligence. While facial recognition offers numerous benefits, including enhanced security and efficiency in various sectors, it has also raised significant concerns related to privacy, civil liberties, and potential biases.

One of the primary concerns surrounding facial recognition technology is the potential for misuse or abuse by government agencies, law enforcement, and private entities. Critics argue that unchecked deployment of facial recognition could lead to mass surveillance, eroding personal privacy and civil liberties. The technology's accuracy has also been a subject of debate, with studies indicating higher error rates for certain demographic groups, particularly people of color and women. This has raised concerns about the potential for discriminatory outcomes and the reinforcement of existing biases within the technology.

In response to these concerns, there has been a growing movement at various levels of government to implement policies and regulations addressing the deployment of facial recognition technology. Local, state, and federal legislative bodies have been actively considering and, in some cases, enacting laws to regulate the use of facial recognition.

Here in Baltimore City, 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.

Several states have also entered the conversation, with some considering or passing legislation to regulate the use of facial recognition technology. These efforts often focus on ensuring transparency, establishing guidelines for law enforcement use, and addressing the potential for biased outcomes. Some states have gone as far as imposing temporary moratoriums on the use of facial recognition technology until appropriate



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### **BILL REPORT**

### **FACIAL RECOGNITION TECHNOLOGY**

regulations are in place. 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.

At the federal level, there have been discussions about the need for comprehensive legislation to govern the use of facial recognition technology nationwide. These discussions often involve considerations for personal data security, the prevention of abuse, and the protection of civil liberties. Policymakers are grappling with the challenge of balancing the potential benefits of the technology with the need to safeguard individual rights and privacy.

#### **Racial Equity Impacts**

The deployment of facial recognition technology has raised significant concerns regarding racial equity and the potential for discriminatory impacts on marginalized communities. Numerous studies and real-world examples have highlighted the disparities in the accuracy and reliability of facial recognition systems across different demographic groups, with particular challenges for people of color.

One of the primary concerns is the existence of bias in the algorithms that power facial recognition technology. These biases can result from imbalances in the datasets used to train the algorithms, which may not adequately represent the diversity of human faces. If the training data is skewed towards certain racial or ethnic groups, the facial recognition system may perform less accurately for individuals from underrepresented groups.

Research has shown that many facial recognition systems exhibit higher error rates for people with darker skin tones, as well as for women and elderly individuals. This bias can lead to a disproportionate number of false positives and negatives, impacting the fairness and effectiveness of the technology. For example, misidentifications by facial recognition systems could result in wrongful arrests or unwarranted scrutiny for individuals from communities already facing systemic biases in law enforcement.

The racial equity impacts of facial recognition technology extend beyond accuracy concerns. The deployment of these systems by law enforcement agencies has raised concerns of increased surveillance and over-policing in communities of color. There is a concern that the technology may exacerbate existing biases within policing practices, leading to more frequent and intense scrutiny of individuals based on their race or ethnicity.

Furthermore, the potential for abuse or misuse of facial recognition by government authorities could disproportionately affect marginalized communities. Critics argue that these communities, which have historically faced discrimination and surveillance, may bear the brunt of unwarranted intrusions into their privacy and civil liberties.



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### **BILL REPORT**

### **FACIAL RECOGNITION TECHNOLOGY**

In response to these concerns, there has been a growing push for racial equity considerations in the development, deployment, and regulation of facial recognition technology. Advocates argue for increased transparency and accountability in the industry, with a focus on ensuring that the algorithms are thoroughly tested for bias and fairness across diverse populations. They emphasize the importance of including representatives from different racial and ethnic backgrounds in the development and decision-making processes related to facial recognition technology.

Some jurisdictions have taken concrete steps to address these equity concerns. For instance, a number of cities and states have introduced or passed legislation that includes provisions explicitly addressing the potential racial biases of facial recognition systems. These measures aim to establish accountability, transparency, and oversight to mitigate the technology's discriminatory impacts.

#### **Conclusion**

The Office of Equity and Civil Rights supports this legislation, with the amendments submitted by the City Law Department.