



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.**

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To prohibit biometric surveillance by the Federal Government without explicit statutory authorization and to withhold certain Federal public safety grants from State and local governments that engage in biometric surveillance.

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IN THE HOUSE OF REPRESENTATIVES

Ms. JAYAPAL introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To prohibit biometric surveillance by the Federal Government without explicit statutory authorization and to withhold certain Federal public safety grants from State and local governments that engage in biometric surveillance.

1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Facial Recognition and  
5   Biometric Technology Moratorium Act of 2023”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) BIOMETRIC SURVEILLANCE SYSTEM.—The  
4 term “biometric surveillance system” means any  
5 computer software that performs facial recognition  
6 or other remote biometric recognition in real time or  
7 on a recording or photograph.8 (2) BYRNE GRANT PROGRAM.—The term  
9 “Byrne grant program” means the grant program  
10 authorized under subpart 1 of part E of title I of  
11 the Omnibus Crime Control and Safe Streets Act of  
12 1968 (34 U.S.C. 10151 et seq.), whether character-  
13 ized as the Edward Byrne Memorial State and Local  
14 Law Enforcement Assistance Programs, the Local  
15 Government Law Enforcement Block Grants Pro-  
16 gram, the Edward Byrne Memorial Justice Assist-  
17 ance Grant Program, or otherwise.18 (3) FACIAL RECOGNITION.—The term “facial  
19 recognition” means an automated or semi-automated  
20 process that—21 (A) assists in identifying an individual,  
22 capturing information about an individual, or  
23 otherwise generating or assisting in generating  
24 surveillance information about an individual  
25 based on the physical characteristics of the indi-  
26 vidual’s face; or

1 (B) logs characteristics of an individual's  
2 face, head, or body to infer emotion, associa-  
3 tions, activities, or the location of an individual.

13 (6) OTHER REMOTE BIOMETRIC RECOGNI-  
14 TION.—The term “other remote biometric recogni-  
15 tion”—

16 (A) means an automated or semi-auto-  
17 mated process that—

18 (i) assists in identifying an individual,  
19 capturing information about an individual,  
20 or otherwise generating or assisting in gen-  
21 erating surveillance information about an  
22 individual based on the characteristics of  
23 the individual's gait or other immutable  
24 characteristic ascertained from a distance;

1 (ii) uses voice recognition technology;

2 or

3 (iii) logs such characteristics to infer

4 emotion, associations, activities, or the lo-

5 cation of an individual; and

6 (B) does not include identification based

7 on fingerprints or palm prints.

13 SEC. 3. PROHIBITION ON FEDERAL GOVERNMENT USE OF  
14 BIOMETRIC SURVEILLANCE.

15 (a) IN GENERAL.—Except as provided in subsection  
16 (b), it shall be unlawful for any Federal agency or Federal  
17 official, in an official capacity, to acquire, possess, access,  
18 or use in the United States—

19 (1) any biometric surveillance system; or  
20 (2) information derived from a biometric sur-  
21 veillance system operated by another entity.

22 (b) EXCEPTION.—The prohibition set forth in sub-  
23 section (a) does not apply to activities explicitly authorized  
24 by an Act of Congress that describes, with particularity—

1 (1) the entities permitted to use the biometric  
2 surveillance system, the specific type of biometric  
3 authorized, the purposes for such use, and any pro-  
4 hibited uses;

5 (2) standards for use and management of infor-  
6 mation derived from the biometric surveillance sys-  
7 tem, including data retention, sharing, access, and  
8 audit trails;

9 (3) auditing requirements to ensure the accuracy  
10 of biometric surveillance system technologies,  
11 standards for minimum accuracy rates, and accuracy  
12 rates by gender, skin color, and age;

16 (5) mechanisms to ensure compliance with the  
17 provisions of the Act.

18 (c) JUDICIAL INVESTIGATIONS AND PROCEEDINGS.—

25 (2) CAUSE OF ACTION.—

1 (A) IN GENERAL.—A violation of this sec-  
2 tion constitutes an injury to any individual ag-  
3 grieved by a violation of this Act.

4 (B) RIGHT TO SUE.—An individual de-  
5 scribed in subparagraph (A) may institute pro-  
6 ceedings against the Federal Government whose  
7 official is alleged to have violated this section  
8 for the relief described in subparagraph (D) in  
9 any court of competent jurisdiction.

10 (C) ENFORCEMENT BY STATE ATTORNEYS  
11  
12 GENERAL.—The chief law enforcement officer  
13 of a State, or any other State officer authorized  
14 by law to bring actions on behalf of the resi-  
15 dents of a State, may bring a civil action, as  
16 parens patriae, on behalf of the residents of  
17 that State in an appropriate district court of  
18 the United States to enforce this Act, whenever  
19 the chief law enforcement officer or other State  
20 officer has reason to believe that the interests  
21 of the residents of the State have been or are  
22 being threatened or adversely affected by a vio-  
lation of this Act.

23 (D) RELIEF.—In a civil action brought  
24 under subparagraph (B) in which the plaintiff  
25 prevails, the court may award—

8 (d) CIVIL PENALTIES.—Any Federal official who is  
9 found to have violated this section may be subject to re-  
10 training, suspension, termination, or any other penalty, as  
11 determined in an appropriate tribunal, subject to applica-  
12 ble due process requirements.

13 (e) FEDERAL FUNDING.—

22 (f) RULES OF CONSTRUCTION.—Nothing in this sec-  
23 tion may be construed—

24 (1) to prohibit the National Institute of Standards and Technology (NIST) from testing or re-

1        searching biometric surveillance systems or other re-  
2        mote biometric recognition technologies in commer-  
3        cial use; or

4                (2) to preempt or supersede any Federal, State,  
5        or local law that imposes a more stringent limitation  
6        than the limitations described in this section.

7 **SEC. 4. MORATORIUM ON STATE AND LOCAL GOVERNMENT**

8 **USE OF BIOMETRIC SURVEILLANCE SYSTEMS.**

9        (a) **FEDERAL FINANCIAL ASSISTANCE.**—Beginning  
10      on the first day of the first fiscal year beginning after the  
11      date of the enactment of this Act, a State or unit of local  
12      government is ineligible to receive Federal financial assist-  
13      ance under the Byrne grant program unless the State or  
14      unit of local government is complying with a law or policy  
15      that is substantially similar to the prohibition set forth  
16      in section 3(a).

17        (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
18      tion may be construed to preempt or supersede any Fed-  
19      eral, State, or local law that imposes a more stringent lim-  
20      itation than the prohibition set forth in section 3(a).