AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



119TH CONGRESS
2D SESSION

# S. 3779

To limit the Department of Homeland Security's use of facial recognition.

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2026

Mr. MARKEY (for himself, Mr. WYDEN, Mr. MERKLEY, Ms. ALSOBROOKS, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

---

# A BILL

To limit the Department of Homeland Security's use of facial recognition.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "ICE Out of Our Faces Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) BIOMETRIC SURVEILLANCE SYSTEM.—The term "biometric surveillance system" means computer software that performs facial recognition or

other biometric recognition in real time or on a recording or photograph.

(2) COVERED IMMIGRATION OFFICER.—The term ''covered immigration officer'' means any individual who is—

(A) authorized to perform immigration enforcement functions; and

(B)(i) an officer, employee, agent, contractor, or subcontractor of U.S. Customs and Border Protection;

(ii) an officer, employee, agent, contractor, or subcontractor of U.S. Immigration and Customs Enforcement; or

(iii) an individual authorized, deputized, or designated to perform immigration enforcement functions pursuant to section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)).

(3) FACIAL RECOGNITION.—The term ''facial recognition'' means an automated or semi-automated process that—

(A) assists in identifying an individual, capturing information about an individual, matching an individual to a list or otherwise generating or assisting in generating surveil-

lance or identification information about an individual based on the physical characteristics of the individual's face; or

(B) logs characteristics of an individual's face, head, or body to infer emotion, associations, activities, or the location of an individual.

(4) OTHER BIOMETRIC RECOGNITION.—The term ''other biometric recognition''—

(A) means an automated or semi-automated process that—

(i) assists in identifying an individual, capturing information about an individual, or otherwise generating or assisting in generating surveillance information about an individual based on the characteristics of the individual's gait or other immutable characteristic ascertained from a distance;

(ii) uses voice recognition technology; or

(iii) logs characteristics referred to in clause (i) or (ii) to infer emotion, associations, activities, or the location of an individual; and

(B) does not include identification based on fingerprints or palm prints not ascertained from a distance.

(5) VOICE RECOGNITION TECHNOLOGY.—The term ''voice recognition technology'' means an automated or semi-automated process that assists in identifying or verifying an individual based on the characteristics of an individual's voice.

**SEC. 3. PROHIBITION ON THE USE OF BIOMETRIC SURVEILLANCE BY U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OR U.S. CUSTOMS AND BORDER PROTECTION.**

(a) IN GENERAL.—It shall be unlawful for any covered immigration officer to acquire, possess, access, or use in the United States—

(1) any biometric surveillance system; or

(2) information derived from a biometric surveillance system operated by another entity.

(b) BIOMETRIC DATA DELETION.—All information collected by a covered immigration officer for use in, or derived from, a biometric surveillance system, including information collected before the date of the enactment of this Act, shall be deleted not later than 30 days after the date of the enactment of this Act.

(c) JUDICIAL INVESTIGATIONS AND PROCEEDINGS.—

(1) ADMISSIBILITY.—Except in a judicial investigation or proceeding alleging a violation of this section, information obtained in violation of this section is not admissible by the Federal Government in any criminal, civil, administrative, or other investigation or proceeding.

(2) CAUSE OF ACTION.—

(A) IN GENERAL.—A violation of this section constitutes an injury to any individual aggrieved by such violation.

(B) RIGHT TO SUE.—An individual aggrieved by a violation of this section may institute proceedings against the Federal Government whose covered immigration officer is alleged to have violated this section for the relief described in subparagraph (D) in any court of competent jurisdiction.

(C) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—The chief law enforcement officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as parens patriae, on behalf of the residents of such State in an appropriate district court of the United States to enforce this Act, whenever

the chief law enforcement officer or other State officer determines the interests of the residents of such State have been or are being threatened or adversely affected by a violation of this section.

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

(i) actual damages;

(ii) punitive damages;

(iii) reasonable attorneys' fees and costs; and

(iv) any other relief, including injunctive relief, that the court determines to be appropriate.

(d) CIVIL PENALTIES.—Any covered immigration officer who violates this section may be subject to retraining, suspension, termination, or any other penalty, as determined in an appropriate tribunal, and subject to applicable due process requirements.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preempt or supersede any Federal, State, or local law absent actual conflict with the lim-

itations on covered immigration officers imposed by this section.

○