

Illinois Enacts Law to Protect Biometric Information

by Joette S. Doran, Esq.

In October 2008, Illinois enacted the Biometric Information Privacy Act, which seeks to protect individuals from possible identity theft. Biometric information includes retina or iris scans, fingerprints, voice prints, and the scan of hand or face geometry. Today, companies commonly use biometric information, such as using fingerprints as a means of payment such as at the grocery store or the gas station. Employers who collect and/or use biometric information for any reason may also be covered by the Act. For instance, an employer may control an employee's access to certain locations or information by requiring hand scans for entrance to a work site or by using voice prints to ensure that individuals seeking access to confidential data have appropriate authorization. Moreover, if an outside agency performs the background check, an employer may be subject to the Act if it receives copies of biometric information as part of the hiring process. As such, employers should carefully review their procedures to determine whether they include the collection, use, or retention of fingerprints or other biometric data. In order to safeguard biometric information, the Act provides that an employer is to have a written policy which establishes guidelines for collection, use, storage, retention, disclosure and destruction of such



information. A violation of the Act may result in actual or liquidated damages of \$1,000 for a negligent violation or \$5,000 for an intentional or reckless violation, injunctive relief, and attorneys' fees and costs.

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This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.

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