

BIPA Legislation Introduced in 2021

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Notes:

- Click on the link in the bill column to view the text of the proposed legislation and additional information on the [Illinois Legislation](#) page.
- Each of the bills were introduced during the 102nd Illinois General Assembly session but not heard by the deadline in 2021. Therefore, these bills may be reintroduced in 2022 and considered during the next legislative session.
- For more details on important dates, [view](#) the Illinois Legislative Calendar.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
Bills Amending BIPA				
SB0056	Amends BIPA's provisions regarding the private right of action and limits recovery of damages.	<ul style="list-style-type: none"> • Introduces a one-year period of limitation for actions brought under BIPA. • Introduces a cure period of 30 days (i.e., private action could not be initiated if the violation is rectified in 30 days upon receiving written notice of the violation). • Limits recovery of damages to actual damages and attorney's fees. Liquidated damages up to the amount of actual damages may be recovered only in case of a willful violation. 	Sen. Terri Bryant	<ul style="list-style-type: none"> • Filed and introduced (first reading): Jan. 29, 2021. • Assigned to Judiciary: April 7, 2021. • Re-referred to Assignments: April 16, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
HB0559	Narrows the scope of BIPA, amends certain BIPA's rigid procedural requirements (i.e., consent requirements, time frames, etc.), limits recovery of damages.	<p>In addition to the provisions of SB0056, HB0559 introduces the following amendments:</p> <ul style="list-style-type: none"> Excludes "information derived from biometric information that cannot be used to recreate the original biometric identifier" from the definition of biometric information under BIPA. The term "written release" is replaced with "written consent" and is defined as "informed written consent." It provides written consent may be obtained by electronic means. The written policy is required to be made available to the person from whom biometric information (rather than to the public). Excludes companies whose employees are covered by a collective bargaining agreement and relevant data protection policies. 	Rep. Jim Durkin, Dan Caulkins, Thomas M. Bennett, Dan Ugaste and Dan Brady	<ul style="list-style-type: none"> Filed: Feb. 2, 2021. Introduced (first reading): Feb. 8, 2021. Second reading -short debate: April 14, 2021. Last amended: April 22, 2021. Re-referred to Rules Committee: April 23, 2021.
SB0300	Mostly the same as HB0559, certain definitions and procedures are amended.	<p>Introduces the same amendments as HB0559 with the following amendments:</p> <ul style="list-style-type: none"> The definition of "written release" is amended by adding the clarification that written consent includes consent obtained by electronic means (unlike HB0559, the term "written release" remains). Introduces accrual of BIPA claims (upon a person's first use of the technology/upon the first disclosure or redisclosure of the person's biometric identifier). Introduces limitations regarding the collection and use of biometric information to detect or contain the spread of COVID-19. 	Sen. Jason A. Barickman	<ul style="list-style-type: none"> Filed and introduced (first reading): Feb. 19, 2021. Assigned to Judiciary-Privacy: March 9, 2021. Re-referred to Assignments: April 16, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
HB0560	Replaces the private right of action by government enforcement procedures.	<p>Introduces the same amendments as HB0559, except provisions regarding the private action and enforcement are amended as follows:</p> <ul style="list-style-type: none"> Abolishes the private right of action. The Illinois Department of Labor is authorized to enforce BIPA in case of violations resulting from collecting biometric information by an employer for employment, human resources, fraud prevention or security purposes. The Illinois attorney general and state attorney's offices are authorized to enforce BIPA in the case of violation of the Consumer Fraud and Deceptive Business Practices Act. Introduces a one-year period of limitation for filing the complaint. 	Jim Durkin, Dan Caulkins and Thomas M. Bennett	<ul style="list-style-type: none"> Filed: Feb. 2, 2021. Introduced (first Reading): Feb. 8, 2021. Assigned to Judiciary-Civil Committee: March 2, 2021. Re-referred to Rules Committee: March 27, 2021.
HB1764	Replaces the private right of action by granting the sole authority to enforce BIPA to the Illinois attorney general in instances of actual harm.	<ul style="list-style-type: none"> Changes the definition of "written release" to include electronic consent and releases (unlike HB0559, the term "written release" remains). Abolishes the private right of action. The state attorney general has the sole authority to enforce BIPA. An action may be brought to enforce BIPA only if a violation causes actual harm. Introduces the exemption that employers can use biometric identifiers and biometric information for specified purposes. 	Rep. Keith R. Wheeler	<ul style="list-style-type: none"> Filed: Feb. 11, 2021. Introduced (first reading): Feb. 17, 2021. Assigned to Civil Procedure & Tort Liability Subcommittee: March 23, 2021. Re-referred to Rules Committee: March 27, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
HB3414	Amends BIPA's enforcement procedures.	<ul style="list-style-type: none"> Limits recovery of damages by deleting provision on recovery of damages for each BIPA violation. Introduces one-year period of limitation for filing the claim. Continuing violations or violations of separate BIPA provisions are considered the same occurrence and subject to the one-year statute of limitations calculated from the date of the initial violation. Provides that an employee may waive any BIPA violation after an explanation of rights. Introduces an exemption for licensed operators of a facility collecting, storing, or transmitting biometric information. 	Rep. Thaddeus Jones	<ul style="list-style-type: none"> Filed and introduced (first reading): Feb. 19, 2021 Assigned to Judiciary-Civil Committee: March 16, 2021. Re-referred to Rules Committee: March 27, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
HB3112	Introduces the obligation to show actual harm, limiting recovery of liquidated damages, excludes timekeeping systems used by employers.	<ul style="list-style-type: none"> Excludes “numeric algorithms created by a fingerprint, hand scan, facial geometry or retinal scan and used as part of an employer’s timekeeping system” from the definition of biometric identifier. Excludes “organizations regulated by the Day and Temporary Labor Services Act” from the definition of a private entity. Defines actual harm as “a realized or actual identity theft, realized or actual loss, or a realized or actual injury.” Violations not resulted in actual harm do not fall under the scope of BIPA (i.e., solely subject to investigation and enforcement by the attorney general as violations of the Consumer Fraud and Deceptive Business Practices Act). Reduces the amount of the liquidated damages to \$250 (for negligent actions) and \$500 (for intentional or reckless actions). Liquidated damages are recovered only for the initial (rather than each) BIPA violation. Introduces the following period of limitation for filing the claim: (i) one-year - if no actual harm occurred, (ii) three-years - if actual harm has occurred. Amendments are supposed to apply retroactively (to Oct. 3, 2008). 	Rep. Eva Dina Delgado	<ul style="list-style-type: none"> Filed: Feb. 18, 2021. Introduced (first reading): Feb. 19, 2021. Assigned to Civil Procedure & Tort Liability Subcommittee: March 23, 2021. Re-referred to Rules Committee March 27, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
SB0602	Simplifies the use of biometric information for security purposes.	<ul style="list-style-type: none"> Excludes “information captured and converted to a mathematical representation, including, but not limited to, a numeric string or similar method that cannot be used to recreate the biometric identifier” from the definition of biometric identifier. Electronic communications are included in the definition of “written release.” Introduces new definitions: “biometric lock,” “biometric time clock,” “electronic signature,” “in writing,” and “security purpose.” It is enough to inform the subject or receive consent during the initial collection for the same repeated process of collecting the biometric identifier/information. Waives certain procedural requirements relating to the collection of biometric information for security purposes. Narrows the BIPA scope by excluding information captured by: (i) an alarm system installed by a licensed person; (ii) a biometric time clock, or (iii) a biometric lock that converts a person’s biometric identifier to a mathematical representation. Requires the Illinois Department of Labor to include information regarding the BIPA requirements on its website. 	Sen. Bill Cunningham	<ul style="list-style-type: none"> Filed and Introduced (first reading): Feb. 24, 2021. Assigned to Judiciary- Privacy: March 9, 2021. Re-referred to Assignments April 16, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
SB1607	Simplifies the use of biometric information for security and HR purposes, grants the sole authority to enforce BIPA to the attorney general in instances of actual harm.	<ul style="list-style-type: none"> Includes “electronic consent” and “electronic release” in the definition of “written release.” Defines “security purpose” as “the purpose of preventing shoplifting, fraud, or any other misappropriation or theft of a thing of value, including tangible and intangible goods and services, and other purposes in furtherance of protecting the security or integrity of software, accounts, applications, online services, property, or any person.” The attorney general and state attorney have the sole authority to enforce BIPA. An action under BIPA may be brought only if a violation causes actual harm (unlike SB0602, actual harm is not defined). Creates an exemption for employers using biometric identifiers/information for: (i) keeping a record of an employee’s work hours; (ii) a security purpose; (iii) facility access; or (iv) use by the HR department or HR employees of the employer. These exemptions are applied only if the employer retains the biometric identifier/information no longer than is reasonably necessary to satisfy a security purpose. 	Sen. Bill Cunningham	<ul style="list-style-type: none"> Filed and introduced (first reading): Feb. 26, 2021. Senate Committee Amendment No. 2 Assignments Refers to Judiciary: April 13, 2021. Re-referred to Assignments : April 16, 2021.

Bill	Short Description	Overview of Key Provisions	Sponsors/Authors	Legislative History/Status
Bills Repealing BIPA				
SB2039	Repeals BIPA.	<ul style="list-style-type: none"> Repeals BIPA in its entirety. 	Sen. Craig Wilcox	<ul style="list-style-type: none"> Filed and introduced (first reading): Feb. 26, 2021. Assigned to Judiciary-Privacy: March 16, 2021. Re-referred to Assignments: April 16, 2021.
HB3304	Repeals BIPA.	<ul style="list-style-type: none"> Repeals BIPA in its entirety. 	Rep. Mike Murphy	<ul style="list-style-type: none"> Filed and introduced (first reading): Feb. 19, 2021. Assigned to Civil Procedure & Tort Liability Subcommittee: March 23, 2021. Re-referred to Rules Committee: March 27, 2021.