

**A LOCAL LAW TO BE ENACTED BY
THE ERIE COUNTY LEGISLATURE
IN THE COUNTY OF ERIE**

**LOCAL LAW INTRO. 1-1 2026
LOCAL LAW NO. 2026**

A LOCAL LAW requiring businesses to notify customers of the use of biometric identifier technology and prohibiting the sale of biometric identifier information.

Section 1. Title

This law shall be entitled and known as the “Biometrics Transparency and Privacy Act”

Section 2. Legislative findings and intent.

Be it enacted by the County Legislature of the County of Erie as follows:

The Erie County Legislature finds that biometric identifier technologies are increasingly used in commercial settings, including for customer authentication, building access, and fraud prevention. The Legislature also finds that biometric identifier information is uniquely sensitive because it is derived from a person’s physical or biological characteristics and may be difficult or impossible to replace if compromised. The Erie County Legislature further finds that consumers are entitled to clear notice when a business collects or uses biometric identifier information and that the sale or other monetization of such information is inconsistent with basic privacy expectations; this local law is intended to promote transparency and protect the public by requiring conspicuous notice and prohibiting the sale or other monetization of biometric identifier information.

Section 3.

The Erie County Code is amended by adding a new **Article 28** to read as follows:

Article 28

Biometric Identifier Information

Section 28.01 Definitions.

As used in this article, the following terms have the following meanings:

1. **Biometric identifier information.** The term “biometric identifier information” means a physiological or biological characteristic that is used by or on behalf of a commercial establishment, singly or in combination, to identify, or assist in identifying, an individual, including, but not limited to: (i) a retina or iris scan, (ii) a fingerprint or voiceprint, (iii) a scan of hand or face geometry, or any other identifying characteristic.

2. **Commercial establishment.** The term “commercial establishment” means any person, firm, partnership, association, corporation, company, organization, or other entity that operates a place of business within Erie County and offers goods or services to the public, whether for profit or not for profit.
3. **Customer.** The term “customer” means a purchaser or lessee, or a prospective purchaser or lessee, of goods or services from a commercial establishment.
4. **Director.** The term “Director” means the Director of Consumer Protection of Erie County, or any successor officer or office performing substantially similar functions.
5. **Financial institution.** The term “financial institution” means a bank, trust company, national bank, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, federal mutual savings and loan association, credit union, federal credit union, branch of a foreign banking corporation, public pension fund, retirement system, securities broker, securities dealer or securities firm, but does not include a commercial establishment whose primary business is the retail sale of goods and services to customers and provides limited financial services such as the issuance of credit cards or in-store financing to customers.

Section 28.02 Notice of collection, use, storage, or sharing.

- a. **Notice required.** Any commercial establishment that collects, retains, converts, stores, uses, or shares biometric identifier information of customers must disclose such collection, retention, conversion, storage, use, or sharing, as applicable, by placing a clear and conspicuous sign near all of the commercial establishment’s customer entrances notifying customers in plain, simple language, in a form and manner prescribed by the Director by rule, that customers’ biometric identifier information is being collected, retained, converted, stored, used, or shared, as applicable.

Section 28.03 Prohibition on sale or monetization; service-provider safe harbor.

- a. **Prohibition.** It shall be unlawful for any commercial establishment to sell, lease, trade, or share in exchange for anything of value, or otherwise profit from the transaction of biometric identifier information.
- b. **Service-provider safe harbor.** A commercial establishment shall not be deemed to have violated subdivision (a) of this section solely because it discloses biometric identifier information to a vendor or service provider for the limited purpose of providing goods or services to, or on behalf of, the commercial establishment, provided that such vendor or service provider is contractually prohibited from:
 - a. selling, leasing, trading, or otherwise monetizing such biometric identifier information; and

- b. using such biometric identifier information for any purpose other than providing such goods or services.

Section 28.04 Enforcement; notices of violation; cure period; civil penalties; injunctive relief.

- a. **Primary enforcement authority.** This article shall be enforced by the Director. The Director may receive complaints, conduct investigations, and promulgate rules necessary to implement this article, including rules establishing the form, content, and placement requirements for the notice required by Section 28.02.
- b. **Notice of violation; cure period for notice violations.**
 - a. For an alleged violation of Section 28.02, the Director shall issue a written notice of violation describing the alleged noncompliance and providing a cure period of thirty (30) days from the date of the notice.
 - b. If the commercial establishment cures the violation within the cure period and provides written certification of cure in a form acceptable to the Director, the Director may close the matter without civil penalty.
- c. **Civil penalties.**
 - a. Any commercial establishment that fails to cure a violation of Section 28.02 within the cure period may be subject to a civil penalty of not more than five hundred dollars (\$500) per violation.
 - b. Any commercial establishment that violates Section 28.03(a) may be subject to a civil penalty of not more than five thousand dollars (\$5,000) per violation.
- d. **Civil enforcement; injunctive relief.** The Director may refer matters to the Erie County Attorney, who is authorized to commence a civil action in a court of competent jurisdiction to recover civil penalties and to seek injunctive or other equitable relief to enforce this article.

Section 28.05 Applicability; exemptions.

- a. **Government exemption.** Nothing in this article shall apply to the collection, storage, sharing, or use of biometric identifier information by government agencies, employees, or agents acting within the scope of their governmental duties.
- b. **Exceptions to the notice requirement.** The disclosure required by Section 28.02 shall not apply to:
 - a. Financial institutions.
 - b. Biometric identifier information collected through photographs or video recordings, if: (i) the images or videos collected are not analyzed by software or applications that identify, or that assist with the identification of, individuals based on physiological or biological characteristics, and (ii) the images or video are not shared with, sold, or leased to third parties other than law enforcement agencies.

Section 28.06 Outreach and education.

The Director shall conduct or facilitate, with any other relevant County agency or office, outreach and education efforts, through guidance posted on County websites or through such other means as may be feasible, to inform commercial establishments likely to be affected by this article about its requirements.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 5. Effective date.

This local law shall take effect one hundred eighty (180) days after it becomes law.

Section 6. Codification and renumbering.

The Erie County Attorney is authorized to cause this local law to be codified in the Erie County Code and to make non-substantive formatting and numbering corrections necessary to implement the intent of this local law.

Sponsor: Legislator Lawrence J. Dupre