1	PUBLIC SURVEILLANCE PROHIBITION AMENDMENTS
2	2024 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Daniel McCay
5	House Sponsor:
6 7	LONG TITLE
8	General Description:
9	This bill prohibits a governmental entity from obtaining certain types of surveillance
10	information.
11	Highlighted Provisions:
12	This bill:
13	defines and modifies terms;
14	 prohibits a governmental entity from obtaining certain types of surveillance
15	information without a warrant;
16	provides exceptions; and
17	makes technical and conforming changes.
18	Money Appropriated in this Bill:
19	None
20	Other Special Clauses:
21	None
22	Utah Code Sections Affected:
23	AMENDS:
24	77-23d-102, as last amended by Laws of Utah 2023, Chapter 16
25	77-23e-102, as enacted by Laws of Utah 2021, Chapter 200
26	ENACTS:
27	77-23d-106 , Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:
Section 1. Section 77-23d-102 is amended to read:
CHAPTER 23d. SURVEILLANCE PRIVACY
77-23d-102. Definitions.
As used in this chapter:
(1) "Authorized property" means:
(a) a building or part of a building owned or leased by a law enforcement agency or a
correctional facility; or
(b) critical infrastructure if owned or operated by a government entity.
(2) "Biometric surveillance information" means the analysis of surveillance
information using biometric software to identify an individual's identity or location using the
individual's physical attributes or manner.
(3) "Critical infrastructure" means the same as that term is defined in Section
<u>76-6-106.3.</u>
(4) (a) "Government entity" means the state, a county, a municipality, a higher
education institution, a special district, a special service district, or any other political
subdivision of the state or an administrative subunit of $[any]$ \underline{a} political subdivision $[\underline{, including}]$
<u> </u>
(b) "Government entity" includes a law enforcement entity or any other investigative
entity, agency, department, division, bureau, board, or commission, or an individual acting or
purporting to act for or on behalf of a state or local agency.
$[\frac{(2)}{(5)}]$ "Imaging surveillance device" means a device that uses radar, sonar, infrared,
or other remote sensing or detection technology used by the individual operating the device to
obtain information, not otherwise directly observable, about individuals, items, or activities
within a closed structure.
(6) "Surveillance information" means future, current, or historical information
produced by the digital monitoring of an area that can be used to create biometric surveillance
<u>information.</u>
[(3)] (7) "Target" means a person or a structure upon which a government entity
intentionally collects or attempts to collect information using an imaging surveillance device.

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59	Section 2. Section 77-23d-106 is enacted to read:
60	77-23d-106. Biometric surveillance information.
61	(1) Except as provided in Subsection (2), a government entity may not obtain biometric
62	surveillance information without a search warrant.
63	(2) A government entity may obtain biometric surveillance information without a
64	search warrant:
65	(a) on authorized property; or
66	(b) in accordance with a judicially recognized exception to warrant requirements.
67	Section 3. Section 77-23e-102 is amended to read:
68	77-23e-102. Definitions.
69	As used in this chapter:
70	(1) "Department" means the Department of Public Safety, created in Section 53-1-103.
71	(2) "Facial biometric data" means data derived from a measurement, pattern, contour,
72	or other characteristic of an individual's face, either directly or from an image.
73	(3) (a) "Facial recognition comparison" means the process of comparing an image or
74	facial biometric data to an image database.
75	(b) "Facial recognition comparison" does not include biometric surveillance
76	information as that term is defined in Section 77-23d-102.
77	(4) (a) "Facial recognition system" means a computer system that, for the purpose of
78	attempting to determine the identity of an unknown individual, uses an algorithm to compare
79	biometric data of the face of the unknown individual to facial biometric data of known
80	individuals.
81	(b) "Facial recognition system" does not include:
82	(i) a system described in Subsection (4)(a) that is available for use, free of charge, by
83	the general public; or
84	(ii) a system a consumer uses for the consumer's private purposes.
85	(5) (a) "Government entity" means:
86	(i) an executive department agency of the state;
87	(ii) the office of:
88	(A) the governor;
89	(B) the lieutenant governor;

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90	(C) the state auditor;
91	(D) the attorney general; or
92	(E) the state treasurer;
93	(iii) the Board of Pardons and Parole;
94	(iv) the Board of Examiners;
95	(v) the National Guard;
96	(vi) the Career Service Review Office;
97	(vii) the State Board of Education;
98	(viii) the Utah Board of Higher Education;
99	(ix) the State Archives;
100	(x) the Office of the Legislative Auditor General;
101	(xi) the Office of Legislative Fiscal Analyst;
102	(xii) the Office of Legislative Research and General Counsel;
103	(xiii) the Legislature;
104	(xiv) a legislative committee of the Legislature;
105	(xv) a court, the Judicial Council, the Administrative Office of the Courts, and similar
106	administrative units in the judicial branch;
107	(xvi) a state institution of higher education as that term is defined in Section
108	53B-3-102;
109	(xvii) an entity within the system of public education that receives funding from the
110	state; or
111	(xviii) a political subdivision of the state as that term is defined in Section 63G-7-102
112	(b) "Government entity" includes:
113	(i) every office, agency, board, bureau, committee, department, advisory board, or
114	commission of an entity described in Subsection (5)(a) that is funded or established by the
115	government to carry out the public's business; or
116	(ii) an individual acting as an agent of a government entity or acting on behalf of an
117	entity described in this Subsection (5).
118	(6) (a) "Image database" means a database maintained by a government entity that
119	contains images the government entity captures of an individual while the individual interacts
120	with the government entity.

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121	(b) "Image database" does not include publicly available information.
122	(7) "Law enforcement agency" means a public entity that exists primarily to prevent,
123	detect, or prosecute crime or enforce criminal statutes or ordinances.
124	(8) "Trained employee" means an individual who is trained to make a facial
125	recognition comparison and identification and who has completed implicit bias training.
126	Section 4. Effective date.
127	This bill takes effect on May 1, 2024.