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Cybersecurity & Privacy Alert

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BIPA Reform Bill addressing One-Time Claim Accrual and Electronic Signature passes Illinois Legislature

By Katherine Letcher and John Ruskusky

Following its expected signature by Governor Pritzker, Senate Bill 2979 amends the Illinois Biometric Information Privacy Act (BIPA) and limits statutory damages.



What's the impact?

- The BIPA Reform Bill defines “electronic signature” as an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- The Court’s majority encouraged the Illinois Legislature to “review these policy concerns and make clear its intent regarding the assessment of damages under the Act.

On May 16, 2024, Illinois State Legislature passed Senate Bill 2979 (the Bill), which provides that a private entity that more than once collects or discloses a person’s biometric identifier or biometric information from the same person in violation of the Act “has committed a single

violation [of sections 15(b) and 15(d) of BIPA] for which the aggrieved person is entitled to, at most, one recovery . . .”¹

The Bill addresses the Illinois Supreme Court’s decision on BIPA claim accrual in *Cothron v. White Castle*. In that decision, the court ruled a separate BIPA claim may arise each time a private entity collects or discloses an individual’s biometric identifier or information. The court’s majority encouraged the Illinois Legislature to “review these policy concerns and make clear its intent regarding the assessment of damages under the Act.”

If the Bill is signed into law, it could provide relief to business owners and private entities faced with statutory damages of \$1,000 or \$5,000 for each time a plaintiff alleges his or her biometric information or identifier was collected.

The Bill also confirms that a “Written Release” under BIPA includes an electronic signature, which is defined to include “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.”

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

[Katherine F. Letcher](#)

312.977.4472

kletcher@nixonpeabody.com

[John Ruskusky](#)

312.977.4460

jtruskusky@nixonpeabody.com

¹<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=2979&GAID=17&DocTypeID=SB&LegId=152094&SessionID=112&GA=103>