

## Legislation Details (With Text)

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<b>On agenda:</b>		<b>Final action:</b>	6/1/2021
<b>Enactment date:</b>	6/17/2021	<b>Enactment #:</b>	19296
<b>Title:</b>	AN ORDINANCE relating to facial recognition, prohibiting the acquisition and use of facial recognition technology by County administrative offices and executive departments, including the department of public safety; and adding a new chapter in K.C.C. Title 2.		
<b>Sponsors:</b>	Jeanne Kohl-Welles, Rod Dembowski, Dave Upthegrove, Girmay Zahilay		
<b>Indexes:</b>	Administration, Technology		
<b>Code sections:</b>	2 -		
<b>Attachments:</b>	1. Ordinance 19296, 2. 2021-0091 Amendment 1, 3. 2021-0091_SR-FacialRecBan_Updated_Draft.docx, 4. 5-5-21 COW Public Comment.pdf, 5. 2021-0091_ATT2_AMDS1_Final.docx, 6. 2021-0091 Sanders Comments.pdf, 7. 2021-0091 Campbell.pdf, 8. 2021-0091 Nakkanti.pdf, 9. 2021-0091 Pincus.pdf, 10. 2021-0091_SR-FacialRecBan_5-19-21.docx, 11. 2021-0091_ATT1 Proposed Ordinance.pdf, 12. 2021-0091_ATT2_AMDS1_Final.docx, 13. 2021-0091_RevisedSR_FacialRecBan.docx		

Date	Ver.	Action By	Action	Result
6/1/2021	2	Metropolitan King County Council	Passed as Amended	Pass
5/19/2021	1	Committee of the Whole	Recommended Do Pass Substitute	Pass
5/5/2021	1	Committee of the Whole	Deferred	
4/21/2021	1	Committee of the Whole	Deferred	
2/16/2021	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to facial recognition, prohibiting the acquisition and use of facial recognition technology by County administrative offices and executive departments, including the department of public safety; and adding a new chapter in K.C.C. Title 2.

### STATEMENT OF FACTS:

1. The development of a diverse array of sophisticated surveillance tools, including facial recognition technology, combined with the impacts of the COVID-19 pandemic, has spurred the unprecedented surveillance of individuals by governments around the world.
2. The council finds that the propensity for surveillance technology, specifically facial recognition technology, to endanger civil rights and liberties substantially outweighs the purported benefits, and that such technology will exacerbate racial injustice.

3. The council finds that the use of facial recognition technology to watch, categorize, monitor, and record the activities and movements of county residents disproportionately impacts people of color, immigrants, LGBTQ people and political activists of all backgrounds. Bias, accuracy issues and stereotypes built into facial recognition technology pose a threat to the residents of King County.

4. The council recognizes the emerging need to protect individuals' public safety, privacy and civil rights has led a growing number of local governments to adopt laws prohibiting the use of facial recognition and other surveillance technology. United States cities including Oakland, San Francisco and Boston have passed bans on the government use of facial recognition technology.

5. The department of public safety, otherwise known as the King County sheriff's office, is a county executive department according to Section 350.20.40 of the King County Charter.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 through 4 of this ordinance should constitute a new chapter in K.C.C. Title 2.

NEW SECTION. SECTION 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "County personnel" means any person or entity acting on behalf of a King County administrative office or executive department, including any officer, employee, agent, contractor, subcontractor, vendor or volunteer.

B. "Facial recognition" means an automated or semiautomated process that assists in identifying, or verifying the identity of, an individual based on the physical characteristics of an individual's face.

C. "Facial recognition information" means any data or information obtained or derived from facial recognition technology.

D.1. "Facial recognition technology" means any computer software or application that performs facial recognition.

2. "Facial recognition technology" does not include:

- a. the analysis of facial features to grant or deny access to an electronic device; or
- b. the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure by county administrative offices or executive departments, to protect the privacy of a subject depicted in the recording, if the process does not generate or result in the retention of any facial recognition information.

NEW SECTION. SECTION 3.

A.1. It shall be unlawful for any King County administrative office or executive department to:

- a. obtain, retain, possess, access or use:
  - (1) any facial recognition technology; or
  - (2) any facial recognition information; and
- b. issue any permit or enter into any contract or agreement that authorizes any third party, on behalf

of a county administrative office or executive department public safety, to obtain, retain, possess, access or use:

- (1) any facial recognition technology; or
- (2) facial recognition information.

2. Nothing in this subsection A. prohibits a county administrative office or executive department from:

a. using evidence relating to the investigation of a specific crime that might have been generated from a facial recognition technology, so long as the evidence was not generated by or at the request of the county administrative office or executive department;

b. using social media or communications software or applications for communicating with the public, but only if use does not include the affirmative use of any facial recognition technology or facial recognition information;

c. using automated redaction software, but only if software does not have the facial recognition capabilities; or

d. complying with the National Child Search Assistance Act.

B. County personnel's inadvertent or unintentional receipt, retention of, access of or use of any facial recognition information is not a violation of this chapter, but only if:

1. The county personnel did not intentionally request, retain or solicit the receipt, access or use of the information;

2. The county personnel logs the receipt, retention of, access or use with the county personnel's direct supervisor, not including any personally identifiable information or other information the release of which is prohibited by law, no longer than seven days after the receipt, retention of access or use; and

3. The county personnel immediately deletes any facial recognition information unintentionally received, retained, accessed or used, subject to applicable law.

#### NEW SECTION. SECTION 4.

A. Any facial recognition information collected or derived in violation of this chapter shall be considered unlawfully obtained and shall be deleted upon discovery, subject to applicable law.

B. Any violation of this chapter constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief or writ of mandate in court to enforce this chapter. The court shall award costs and reasonable attorneys' fees to a plaintiff who is the prevailing party in the proceedings.

C. Violations of this chapter by any county personnel may result in retraining, suspension or termination of the county personnel, subject to due process requirements and collective bargaining agreements.

D. Nothing in this section shall be construed to limit any individual's rights under state or federal law.

SECTION 5. The council will review this ordinance upon receipt of an accountability report, as required by RCW 43.386.020, from a King County administrative office or executive department intending to use facial recognition technology in compliance with chapter 43.386 RCW.

SECTION 6. Severability. If any provision of this ordinance or its application to

any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.