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Facial Recognition Act of 2023

Problem: Facial recognition technology (FRT) is one of the most powerful surveillance tools ever created. Law enforcement agencies throughout the country use the technology to fight crime, but a general lack of transparency, accountability, and strong limits on its use threatens Americans' civil liberties. Local police have employed FRT to identify lawful peaceful protestors. Law enforcement has also regularly deployed the invasive, sometimes flawed technology to investigate minor crimes like shoplifting $12 worth of goods. The algorithms themselves still suffer from discriminatory bias: a federal study showed people of color are far more likely to be misidentified. Moreover, despite disclosure of investigative practices being a constitutionally protected right, FRT use is often hidden from defendants.

Solution: We need to build robust safeguards that provide transparency to the American people, prevent discriminatory algorithms, ensure defendants are protected with due process rights, and limit the use of the technology to only necessary cases. The Facial Recognition Act of 2023:

Places strong limits and prohibitions on law enforcement use of FRT

- Limits law enforcement use of FRT to situations when a warrant is obtained that shows probable cause that an individual committed a serious violent felony.
- Prohibits law enforcement from using FRT to create a record documenting how an individual expresses rights guaranteed by the Constitution, e.g. lawfully protesting.
- Prohibits an FRT match from being the sole basis upon which probable cause can be established for a search, arrest, or other law enforcement action.
- Prohibits law enforcement use of FRT to enforce immigration laws.
- Bans the use of FRT in conjunction with databases that contain illegitimately obtained information and body cameras, dashboard cameras, and aircraft cameras.
- Bans the use of FRT to track individuals with live or stored video footage.
- Ensures that nothing in the bill preempts state or local governments from FRT bans or moratoriums.

Provides transparency to individuals and protects defendants' rights

- Establishes a private right of action for individuals harmed by the use of FRT.
- Requires law enforcement to provide notice to individuals who are subjects of an FRT search and a copy of the court order and/or other key data points.
- Requires law enforcement to purge the photos of individuals who are younger than 18, were released without charge, had charges dismissed, or were acquitted of the charged offense from FRT arrest photo databases every six months.

Ensures annual assessments and reporting on law enforcement use of FRT

- Requires regular auditing of FRT systems used by law enforcement agencies and suspensions for agencies that fail audits.
- Requires annual, independent testing of any FRT system that law enforcement employs.
- Requires detailed FRT judicial and prosecutorial reporting as well as data collection.