

## **Support HB 1447 – Facial Recognition Technology is a Profound Threat to Privacy and Civil Liberties, and is Biased Against Black and Brown People and Women**

**Bill Summary:** HB 1447 would prohibit state agencies from using face recognition technology.

**Study after study has revealed the flaws of face recognition technology.** In 2018, an MIT research team found alarming racial and gender disparities in commercial face recognition systems. While the systems were relatively accurate when analyzing the faces of white men, they failed over one in three times when classifying the faces of Black women.<sup>i</sup> Subsequent studies confirmed these findings, including a study from the National Institute of Standards and Technology, which found that the majority of algorithms false matched Black women between 10 and 100 times more often than white men and false matched white women between 2 and 10 times more often than white men.<sup>ii</sup> Not even members of Congress are safe — when the ACLU ran a test on Recognition, it falsely matched 28 members of Congress with a mug-shot database, with false matches disproportionately affecting lawmakers of color.<sup>iii</sup>

**A false match causes real world harm.** Detroit police arrested Robert Williams, a Black man, because a face recognition tool had returned a false match.<sup>iv</sup> While the police later acknowledged the mistake, the damage was already done. Williams had been arrested on his own front lawn, in front of his wife and two young daughters. He had to spend 30 hours in a jail cell, accused by an algorithm of a crime he didn't commit. On the arrest, Williams said, "How does one explain to two young girls that the computer got it wrong, but the police listened to it anyway?"<sup>v</sup> At least two more Black men who were misidentified and falsely arrested due to face recognition technology.<sup>vi</sup> But, because of a near complete lack of transparency from government agencies, the real number of victims is unknown. To make matters worse, we are seeing the government's use of face recognition technology extending well beyond law enforcement. We're seeing it deployed in schools and public housing developments — where its flaws and biases threaten to disproportionately harm Black and Brown people in settings already wrought with racial discrimination and inequality.

**Even if face recognition technology worked perfectly, it is still a nightmare for civil liberties.** Face recognition technology gives governments, companies, and individuals the power to spy on us wherever we go — tracking our faces at protests, political rallies, places of worship, family planning clinics, substance abuse treatment centers, and more. When combined with existing networks of surveillance cameras dotting our urban and suburban landscapes, face recognition algorithms could enable governments to track the public movements, habits, and associations of all people at all times without any justification or suspicion of wrongdoing — merely with the push of a button. Again, this is not a hypothetical danger. Face recognition technology is currently being used to conduct precisely this kind of dystopian monitoring in China — where the government is tracking how many times and where people pray, where they enter their homes, and peoples' social and professional contacts.<sup>vii</sup> Such mass surveillance is intolerable in a free and open society.

**An increasing number of state and local governments have banned the use of face recognition technology.** Six states, including New Hampshire, have passed legislation halting some government use of face recognition technology.<sup>viii</sup> In addition, at least 21 local governments have also reined in this inaccurate and abusive technology.<sup>ix</sup>

**Support HB 1447 – Rein in this Profound Threat to Granite Staters' Privacy**

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- <sup>i</sup> Larry Hardesty, *Study finds gender and skin-type bias in commercial artificial-intelligence systems*, MIT News Office, Feb. 11, 2018, available at <https://news.mit.edu/2018/study-finds-gender-skin-type-bias-artificial-intelligence-systems-0212>.
- <sup>ii</sup> Lauren Chambers, *Five Fast Facts from the Federal Study of Demographic Bias in Facial Recognition*, Privacy SOS, Feb. 3, 2020, available at <https://privacysos.org/blog/five-fast-facts-from-the-federal-study-of-demographic-bias-in-facial-recognition/>.
- <sup>iii</sup> Jacob Snow, *Amazon's Face Recognition Falsely Matched 28 Members of Congress With Mugshots*, ACLU Free Future Blog, July 26, 2018, available at <https://www.aclu.org/blog/privacy-technology/surveillance-technologies/amazons-face-recognition-falsely-matched-28> (Lawmakers of Color made up 20 percent of the Members of Congress, but made up 39 percent of the false matches.).
- <sup>iv</sup> Kate Ruane, *Biden Must Halt Face Recognition Technology to Advance Racial Equity*, ACLU Blog, Feb. 17, 2021, available at <https://www.aclu.org/news/privacy-technology/biden-must-halt-face-recognition-technology-to-advance-racial-equity/>.
- <sup>v</sup> *Id.*
- <sup>vi</sup> Kashmir Hill, *Another Arrest, and Jail Time, Due to a Bad Facial Recognition Match*, NY Times, Dec. 29, 2020, available at <https://www.nytimes.com/2020/12/29/technology/facial-recognition-misidentify-jail.html>.
- <sup>vii</sup> See Civil Liberties Coalition letter to President Joseph Biden, Feb. 16, 2021, available at [https://www.aclu.org/sites/default/files/field\\_document/02.16.2021\\_coalition\\_letter\\_requesting\\_federal\\_moratorium\\_on\\_facial\\_recognition.pdf](https://www.aclu.org/sites/default/files/field_document/02.16.2021_coalition_letter_requesting_federal_moratorium_on_facial_recognition.pdf).
- <sup>viii</sup> California (Police Body Cameras), New Hampshire (Police Body Cameras), Oregon (Police Body Cameras), Vermont (law enforcement, except drone search & rescue), New York (biometrics in schools), Virginia (moratorium – all government).
- <sup>ix</sup> Alameda, CA, Berkeley, CA, Boston, MA (law enforcement), Brookline, MA, Cambridge, MA, Easthampton, MA, Hamden, CT, Jackson, MS (police), King County, WA, Madison, WI, Minneapolis, MN, New Orleans, LA, Northampton, MA, Oakland, CA, Pittsburgh, PA, Portland, ME, Portland, OR, San Francisco, CA, Santa Cruz, CA, Somerville, MA, Springfield, MA, Teaneck, NJ.