

## Background

NOVAtime Technology, Inc. is committed to moving NOVAtime 5000, its premier Workforce Management Solution, towards a high level of biometric compliance.

As of December 2017, Biometric Privacy Laws are available in three states:

- Illinois passed the Biometric Information Privacy Act ("BIPA") in 2008
- Texas followed suit in 2009
- Washington passed its biometric privacy law in 2017

Of these three biometric information laws, only Illinois BIPA provides for a private right of action. Including Alaska, Massachusetts, Montana, and New Hampshire, several other states are considering similar legislation as the commercial collection and use of biometric identifiers becomes more commonplace.

Importantly, unlike the Illinois and Texas statutes, Washington's H.B. 1493 contains a broad "security exception," exempting those persons that collect, capture, enroll or store biometric identifiers in furtherance of a "security purpose."

Another important note: Washington and Texas biometric laws do not allow suits by individual plaintiffs. Only Washington Attorney General can enforce the requirements.

## Biometric Information

According to Illinois BIPA<sup>1</sup>, "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry and "Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual.

The Washington Biometric Identifier<sup>3</sup> defines "Biometric identifier" as "data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that is used to identify a specific individual."

**Last Update:** 04/30/18

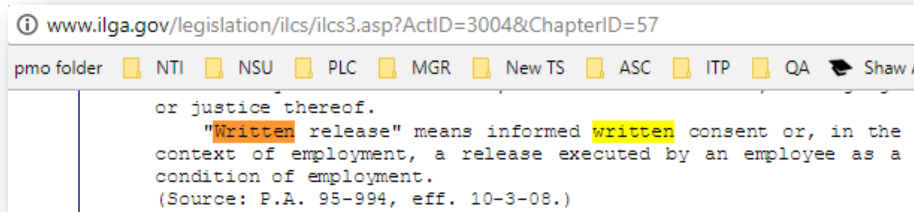
### Helpful Links

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- <sup>1</sup> [Illinois Biometric Information Privacy Act](#)
- <sup>2</sup> [Texas Business & Commerce Code – BUS & COM 503.001 Capture or Use of Biometric Identifier](#)
- <sup>3</sup> [Washington Biometric Identifiers House Bill 1493](#)
- <sup>4</sup> [Five Things to Know About Biometrics in the Workplace \(California\)](#)
- <sup>5</sup> [Litigation Under Illinois Biometric Information Privacy Act Highlights Biometric Data Risks \(over 30 class actions have been filed in Illinois since 6/1/17\)](#)

## Notice and Consent

- Illinois BIPA requires employers to obtain a “written release.”



- Texas<sup>2</sup> and Washington do not specify that consent must be given in writing.

## Compliance Steps

1. Develop a written policy that is made available to employees. This policy must include a retention guideline and guidelines for permanently destroying unused BIPA protected data.
  - a. Under BIPA, a private entity must destroy biometric identifiers and information once the purpose for which they were collected has been fulfilled or within 3 years of the individual's "last interaction" with the employer or entity <sup>(1 Sec 15 (a))</sup>;
  - b. Texas<sup>2</sup> requires the biometric identifiers be destroyed no later than the first anniversary of the date of the purpose for collecting the identifier expires.
2. Provide written notice to all impacted employees that biometric identifiers or information are being collected and stored as well as the specific purpose and time period during which the identifiers or information will be collected, stored and used;
3. Obtain written consent or a release, including a signature from all employees whose biometric identifiers or information will be collected, stored, and used.

## NOVAtime's Support for Biometric Compliance

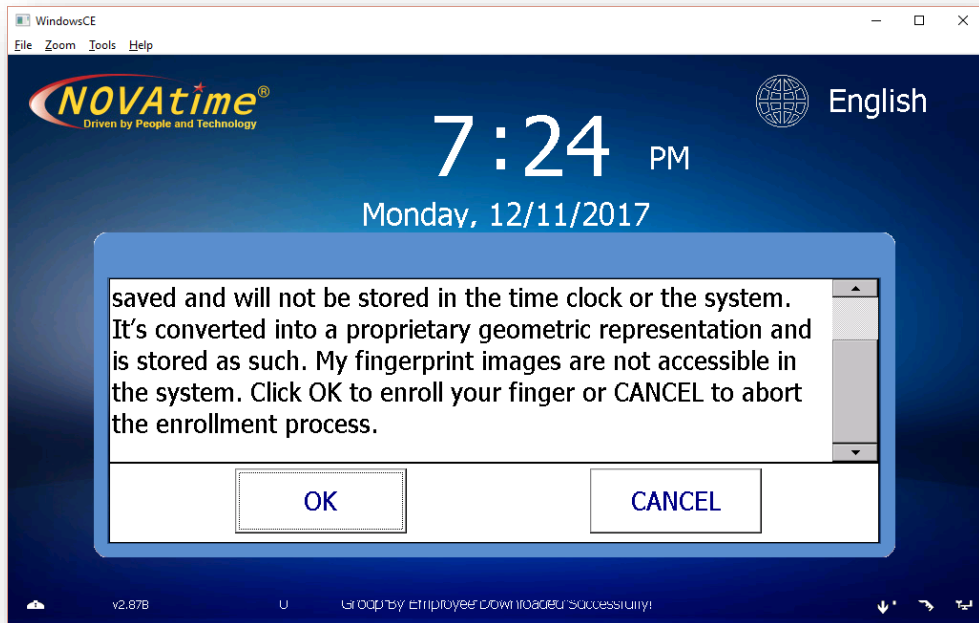
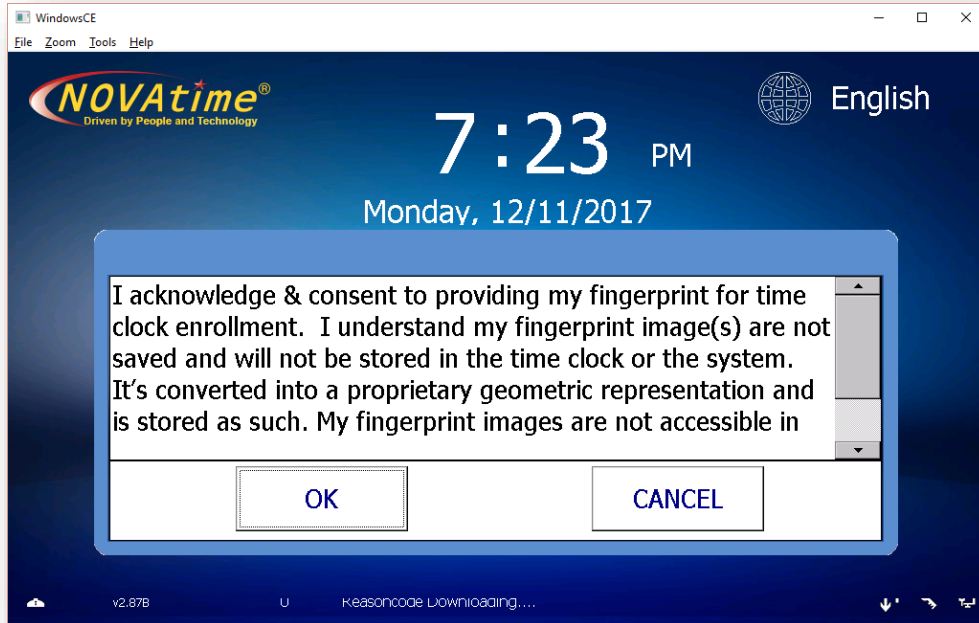
The release schedule for associated programming changes are listed below:

- NOVAtime 5000 SaaS: after 12/2's scheduled system update, all the features stated in this document will be available for Farm1 clients. Farm1 update is on 1/26/18.
- NT7000FP clock version 2.87 (released on 12/18)
- NT7000FPLite clock version 1.5 (released on 12/18)
- NT450 version 4.80 (released on 12/18)

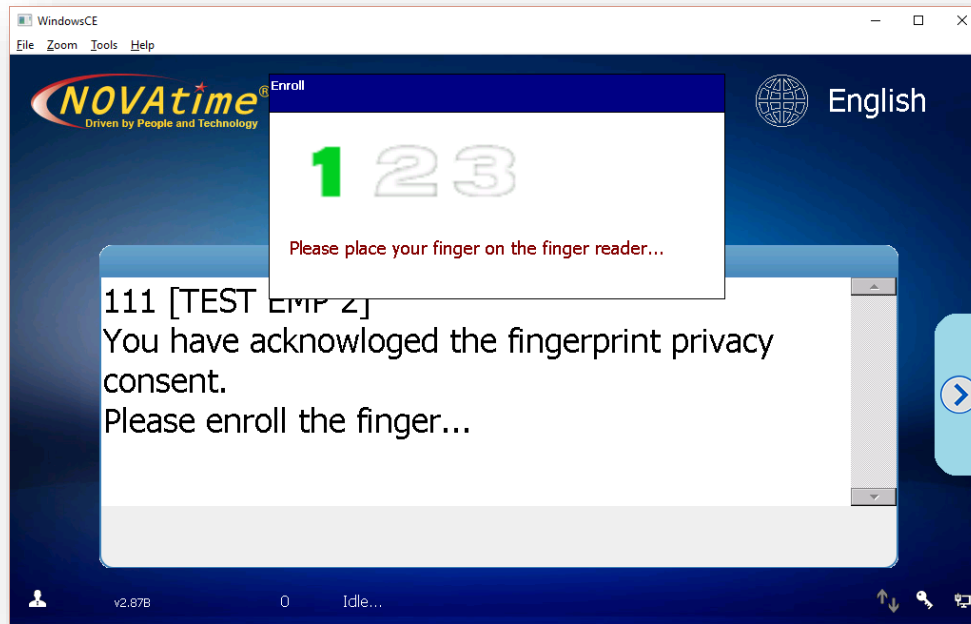
NOVAtime has taken the following actions to support biometric compliance:

1. Updated the **NOVAtime 5000 Privacy Statement** to incorporate the Biometric Privacy, which is accessible and available from the NOVAtime 5000 application login page as well as the Online Help (Chapter 1 > Privacy Statement).
2. Modified the **NT7000 time clock** program to display an acknowledgement and consent statement, allowing employees to opt out of the enrollment process. Each employee's last consent date/time will be stored in the NOVAtime 5000 accessible at **HW Devices > Biodata/Supervisor** page after 12/2/17's scheduled system update.
  - Administrators can manually remove an employee's biometric template from **HW Devices > Biodata/Supervisor** page by clicking on the Delete button. Administrator can choose to auto enroll or manually enroll this employee's template so that the system can record their consent date/time. **Important notes: Electronic consent does not replace the "written consent" requirement as stated in BIPA.**
  - **NT7000FP clock version 2.87 or above:** NT7000FP will prompt the message during the manual or auto enrollment process:

*"I acknowledge & consent to providing my fingerprint for time clock enrollment. I understand my fingerprint image(s) are not saved and will not be stored in the time clock or the system. It's converted into a proprietary geometric representation and is stored as such. My fingerprint images are not accessible in the system. Click OK to enroll your finger or CANCEL to abort the enrollment process."*

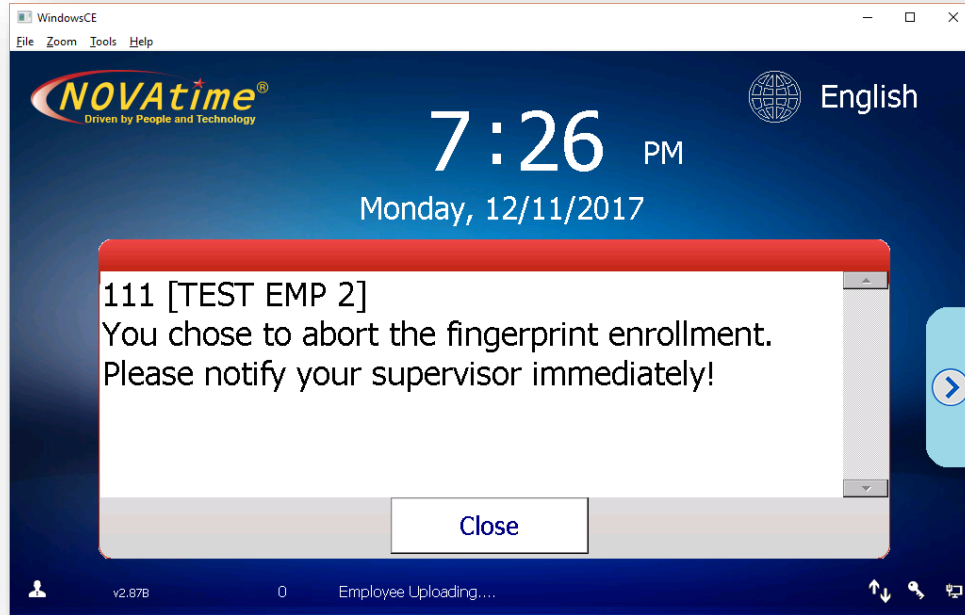


- As part of the finger enrollment, this is the screen that an employee will see:



- If an employee chooses to CANCEL the finger enrollment process, NT7000FP will display this message:

*“You chose to abort the fingerprint enrollment. Please notify your supervisor immediately!”*



- a. The biometric consent date/time should be available in the **HW Devices > Biodata / Supervisor** page under the **Enroll Ack** and **Enroll Ack Date** column.
- b. If a terminated supervisor is not an employee in the NOVAtime system, the system admin needs to purge their biometric template manually. These supervisors' employee ID should be empty in the **HW Devices > Biodata / Supervisor** page.

Device Type	InActive	Card Number	Employee Id	Employee Name	Site	Clock	Authority Level	1st Finger Type	1st Security Level	1st Template Size	2nd Finger Type	2nd Security Level	2nd Template Size	Modified Date	Auto Enroll	Enroll Ack, Enroll Ack, Date
NT7000	<input type="checkbox"/>	9016	9016	PETER PARKER	12[Corporate] 89[NT7000-JJ]	2 [Administrator]	0 [Right index finger]	3 [Middle Security]	737	0 [Left little finger]	--Select--	3 [Middle Security]	1	4/29/2014 11:29:24 AM		
NT7000	<input type="checkbox"/>	100	100	JOHN SMITH	14[Joyce] 9 [NT7000 GA Demo Clock]	0 [Employee]	0 [Right index finger]	3 [Middle Security]	572	--Select--	3 [Middle Security]	3 [Middle Security]	1	4/9/2014 8:55:05 AM		
NT7000	<input type="checkbox"/>	9999			8[Corporate] 90[	0 [Employee]	0 [Right index finger]	3 [Middle Security]	512	--Select--	3 [Middle Security]	3 [Middle Security]	1	4/9/2014 10:46:10 AM		

3. Created a script that will run monthly on the first Saturday of each month to purge biometric templates for inactive employees that were terminated longer than a year. **This script is scheduled to run for the very first time on 12/2/2017**, and will be run monthly during the scheduled system update on the first Saturday of each month.

## Privacy Statement

The following “Biometric Privacy” statement is available from the login page and the NOVAtime 5000 Online Help.

### Biometric Privacy:

To protect biometric data, NOVAtime does not save an image of employee fingerprints nor handprints, but convert and store a proprietary geometric representation of the prints. It is important to note that employee fingerprint and handprint images are not stored in the system, therefore, biometric images cannot be accessed nor available from the NOVAtime system and time clocks. Please note it is the Client’s legal responsibility to comply with state and federal laws including, but not limited to, overtime, rest periods, meal periods, training for compliance with state and federal wage and hour laws, audit for compliance with state and federal wage and hour laws, and written policies/employee handbooks in compliance with state and federal laws. NOVAtime will not indemnify the Client for any such violations of state or federal law.

## Destruction of Biometric Templates

A script was created and first run on 12/2/17 to remove biometric templates for inactive employees that have been inactive for a year or longer during the 5000 schedule maintenance window. This applies to inactive employees with the termination date of 12/2/2016 and prior.

A revised script ran monthly in 2018, as part of the scheduled maintenance on the first Saturday of each month, to NOVAtime 5000 SaaS and NOVAtime 4000 SaaS DBs to purge any biometric templates that are inactive for more than 11 months.

Additional changes are scheduled to be implemented:

1. After 5/5’s NOVAtime 5000 SaaS update in Farm1/Farm4, all inactive employees’ biometric templates and photos will be purged, if an employee is terminated using the Employee > General or Employee > Admin pages.
2. After 6/2’s NOVAtime 5000 SaaS update in Farm1/Farm4, all inactive employees’ biometric templates and photos will be purged, if an employee is terminated using the Employee > Import Employees page or scheduled Import Employees job, as well as from the NEWS/web API import. This is in addition to any termination from Employee > General or Employee > Admin pages.
3. After 6/22’s NOVAtime 5000 server farm sync, the biometric template/photo purge related program changes will be applied to all DBs in NOVAtime 5000 after 6/22.
4. IT will update their script to remove all terminated employees’ biometric templates. We will schedule to run the revised script monthly on the first Saturday of each month, starting on 5/5/18.

## Miscellaneous

1. For clients interested in running the template purge script, contact your NOVAtime reseller or Support department.
2. NOVAtime 4000 SaaS clients will not be able to see the employee consent. We strongly recommend migrating to NOVAtime 5000 SaaS.

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NOVAtime Technology, Inc. was established in 1999 and is headquartered in Rancho Cucamonga, California. By applying the most innovative technology and providing best practice services, NOVAtime has become a leader in the Time and Attendance / Workforce Management industry. Over 10,000 organizations have benefitted from the use of NOVAtime solutions, and the world's best-managed companies continue to select NOVAtime as the preferred solution provider. For more information about NOVAtime, please visit [www.novatime.com](http://www.novatime.com) or call 1-877-486-6682.