

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0270.02 Jane Ritter x4342

**HOUSE BILL 18-1128**

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**HOUSE SPONSORSHIP**

**Wist and Bridges,**

**SENATE SPONSORSHIP**

**Lambert and Court,**

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**House Committees**

State, Veterans, & Military Affairs  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING STRENGTHENING PROTECTIONS FOR CONSUMER DATA**  
102 **PRIVACY.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Except for conduct in compliance with applicable federal, state, or local law, the bill requires public and private entities in Colorado that maintain paper or electronic documents (documents) that contain personal identifying information (personal information) to develop and maintain a written policy for the destruction and proper disposal of those documents. Entities that maintain, own, or license personal information,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

including those that use a nonaffiliated third party as a service provider, shall implement and maintain reasonable security procedures for the personal information. The notification laws governing disclosure of unauthorized acquisitions of unencrypted and encrypted computerized data are expanded to specify who must be notified following such unauthorized acquisition and what must be included in such notification.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-713, **amend** (1),  
3 (2), and (3) as follows:

4 **6-1-713. Disposal of personal identifying information - policy**  
5 **- definition.** (1) Each public and private entity in the state that ~~uses~~  
6 MAINTAINS PAPER OR ELECTRONIC documents during the course of  
7 business that contain personal identifying information shall develop a  
8 WRITTEN policy for the destruction or proper disposal of THOSE paper AND  
9 ELECTRONIC documents containing personal identifying information.  
10 UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW OR  
11 REGULATION, THE WRITTEN POLICY MUST REQUIRE THAT, WHEN SUCH  
12 PAPER OR ELECTRONIC DOCUMENTS ARE NO LONGER NEEDED, THE PUBLIC  
13 OR PRIVATE ENTITY SHALL DESTROY OR ARRANGE FOR THE DESTRUCTION  
14 OF SUCH PAPER AND ELECTRONIC DOCUMENTS WITHIN ITS CUSTODY OR  
15 CONTROL THAT CONTAIN PERSONAL IDENTIFYING INFORMATION BY  
16 SHREDDING, ERASING, OR OTHERWISE MODIFYING THE PERSONAL  
17 IDENTIFYING INFORMATION IN THE PAPER OR ELECTRONIC DOCUMENTS TO  
18 MAKE THE PERSONAL IDENTIFYING INFORMATION UNREADABLE OR  
19 INDECIPHERABLE THROUGH ANY MEANS.

20 (2) For the purposes of this section AND SECTION 6-1-713.5,  
21 "personal identifying information" means a social security number; a  
22 personal identification number; a password; a pass code; an official state

1 or government-issued driver's license or identification card number; a  
2 government passport number; biometric data; an employer, student, or  
3 military identification number; or a financial transaction device, AS  
4 DEFINED IN SECTION 18-5-701 (3).

5 (3) ~~A public entity that is managing its records in compliance with~~  
6 ~~part 1 of article 80 of title 24, C.R.S., shall be deemed to have met its~~  
7 ~~obligations under subsection (1) of this section~~ A PRIVATE ENTITY THAT  
8 IS REGULATED BY STATE OR FEDERAL LAW AND THAT MAINTAINS  
9 PROCEDURES FOR DISPOSAL OF PERSONAL IDENTIFYING INFORMATION  
10 PURSUANT TO THE LAWS, RULES, REGULATIONS, GUIDANCES, OR  
11 GUIDELINES ESTABLISHED BY ITS STATE OR FEDERAL REGULATOR IS IN  
12 COMPLIANCE WITH THIS SECTION.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 6-1-713.5 as  
14 follows:

15 **6-1-713.5. Protection of personal identifying information.**

16 (1) TO PROTECT PERSONAL IDENTIFYING INFORMATION, AS DEFINED IN  
17 SECTION 6-1-713 (2), FROM UNAUTHORIZED ACCESS, USE, MODIFICATION,  
18 DISCLOSURE, OR DESTRUCTION, A PERSON THAT MAINTAINS, OWNS, OR  
19 LICENSES PERSONAL IDENTIFYING INFORMATION OF AN INDIVIDUAL  
20 RESIDING IN THE STATE SHALL IMPLEMENT AND MAINTAIN REASONABLE  
21 SECURITY PROCEDURES AND PRACTICES THAT ARE APPROPRIATE TO THE  
22 NATURE OF THE PERSONAL IDENTIFYING INFORMATION AND THE NATURE  
23 AND SIZE OF THE BUSINESS AND ITS OPERATIONS.

24 (2) A PERSON THAT USES A NONAFFILIATED THIRD PARTY AS A  
25 SERVICE PROVIDER TO PERFORM SERVICES FOR THE PERSON AND  
26 DISCLOSES PERSONAL IDENTIFYING INFORMATION ABOUT AN INDIVIDUAL  
27 RESIDING IN THE STATE WITH THE NONAFFILIATED THIRD PARTY SHALL

1 REQUIRE THAT THE NONAFFILIATED THIRD PARTY IMPLEMENT AND  
2 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT  
3 ARE:

4 (a) APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
5 INFORMATION DISCLOSED TO THE NONAFFILIATED THIRD PARTY; AND

6 (b) REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL  
7 IDENTIFYING INFORMATION FROM UNAUTHORIZED ACCESS, USE,  
8 MODIFICATION, DISCLOSURE, OR DESTRUCTION.

9 (3) FOR THE PURPOSES OF SUBSECTION (2) OF THIS SECTION, A  
10 DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION DOES NOT INCLUDE  
11 DISCLOSURE OF INFORMATION TO A NONAFFILIATED THIRD PARTY UNDER  
12 CIRCUMSTANCES WHERE THE PERSON RETAINS PRIMARY RESPONSIBILITY  
13 FOR IMPLEMENTING AND MAINTAINING REASONABLE SECURITY  
14 PROCEDURES AND PRACTICES APPROPRIATE TO THE NATURE OF THE  
15 PERSONAL IDENTIFYING INFORMATION AND THE PERSON IMPLEMENTS AND  
16 MAINTAINS TECHNICAL CONTROLS THAT ARE REASONABLY DESIGNED TO:

17 (a) HELP PROTECT THE PERSONAL IDENTIFYING INFORMATION  
18 FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR  
19 DESTRUCTION; OR

20 (b) EFFECTIVELY ELIMINATE THE NONAFFILIATED THIRD PARTY'S  
21 ABILITY TO ACCESS THE PERSONAL IDENTIFYING INFORMATION,  
22 NOTWITHSTANDING THE THIRD PARTY'S PHYSICAL POSSESSION OF THE  
23 PERSONAL IDENTIFYING INFORMATION.

24 (4) A PERSON THAT IS REGULATED BY STATE OR FEDERAL LAW AND  
25 THAT MAINTAINS PROCEDURES FOR PROTECTION OF PERSONAL  
26 IDENTIFYING INFORMATION PURSUANT TO THE LAWS, RULES,  
27 REGULATIONS, GUIDANCES, OR GUIDELINES ESTABLISHED BY ITS STATE OR

1 FEDERAL REGULATOR IS IN COMPLIANCE WITH THIS SECTION.

2 **SECTION 3.** In Colorado Revised Statutes, 6-1-716, **amend** (2),  
3 (3), and (4); **repeal and reenact, with amendments**, (1); and **add** (5) as  
4 follows:

5 **6-1-716. Notification of security breach. (1) Definitions.** AS  
6 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "BIOMETRIC DATA" MEANS UNIQUE BIOMETRIC DATA  
8 GENERATED FROM MEASUREMENTS OR ANALYSIS OF HUMAN BODY  
9 CHARACTERISTICS FOR THE PURPOSE OF AUTHENTICATING THE INDIVIDUAL  
10 WHEN HE OR SHE ACCESSES AN ONLINE ACCOUNT.

11 (b) "COMMERCIAL ENTITY" MEANS ANY PRIVATE LEGAL ENTITY,  
12 WHETHER FOR-PROFIT OR NOT-FOR-PROFIT.

13 (c) "DETERMINATION THAT A SECURITY BREACH OCCURRED"  
14 MEANS THE POINT IN TIME AT WHICH THERE IS SUFFICIENT EVIDENCE TO  
15 CONCLUDE THAT A SECURITY BREACH HAS TAKEN PLACE.

16 (d) "ENCRYPTED" MEANS RENDERED UNUSABLE, UNREADABLE, OR  
17 INDECIPHERABLE TO AN UNAUTHORIZED PERSON THROUGH A SECURITY  
18 TECHNOLOGY OR METHODOLOGY GENERALLY ACCEPTED IN THE FIELD OF  
19 INFORMATION SECURITY.

20 (e) "MEDICAL INFORMATION" MEANS ANY INFORMATION ABOUT A  
21 CONSUMER'S MEDICAL OR MENTAL HEALTH TREATMENT OR DIAGNOSIS BY  
22 A HEALTH CARE PROFESSIONAL.

23 (f) "NOTICE" MEANS:

24 (I) WRITTEN NOTICE TO THE POSTAL ADDRESS LISTED IN THE  
25 RECORDS OF THE INDIVIDUAL OR COMMERCIAL ENTITY;

26 (II) TELEPHONIC NOTICE;

27 (III) ELECTRONIC NOTICE, IF A PRIMARY MEANS OF

1 COMMUNICATION BY THE INDIVIDUAL OR COMMERCIAL ENTITY WITH A  
2 COLORADO RESIDENT IS BY ELECTRONIC MEANS OR THE NOTICE PROVIDED  
3 IS CONSISTENT WITH THE PROVISIONS REGARDING ELECTRONIC RECORDS  
4 AND SIGNATURES SET FORTH IN THE FEDERAL "ELECTRONIC SIGNATURES  
5 IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET  
6 SEQ.; OR

7 (IV) SUBSTITUTE NOTICE, IF THE INDIVIDUAL OR THE COMMERCIAL  
8 ENTITY REQUIRED TO PROVIDE NOTICE DEMONSTRATES THAT THE COST OF  
9 PROVIDING NOTICE WILL EXCEED TWO HUNDRED FIFTY THOUSAND  
10 DOLLARS, THE AFFECTED CLASS OF PERSONS TO BE NOTIFIED EXCEEDS TWO  
11 HUNDRED FIFTY THOUSAND COLORADO RESIDENTS, OR THE INDIVIDUAL OR  
12 THE COMMERCIAL ENTITY DOES NOT HAVE SUFFICIENT CONTACT  
13 INFORMATION TO PROVIDE NOTICE. SUBSTITUTE NOTICE CONSISTS OF ALL  
14 OF THE FOLLOWING:

15 (A) E-MAIL NOTICE IF THE INDIVIDUAL OR THE COMMERCIAL  
16 ENTITY HAS E-MAIL ADDRESSES FOR THE MEMBERS OF THE AFFECTED  
17 CLASS OF COLORADO RESIDENTS;

18 (B) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE PAGE  
19 OF THE INDIVIDUAL OR THE COMMERCIAL ENTITY IF THE INDIVIDUAL OR  
20 THE COMMERCIAL ENTITY MAINTAINS ONE; AND

21 (C) NOTIFICATION TO MAJOR STATEWIDE MEDIA.

22 (g) (I) (A) "PERSONAL INFORMATION" MEANS A COLORADO  
23 RESIDENT'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION  
24 WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS THAT  
25 RELATE TO THE RESIDENT, WHEN THE DATA ELEMENTS ARE NOT  
26 ENCRYPTED, REDACTED, OR SECURED BY ANY OTHER METHOD RENDERING  
27 THE NAME OR THE ELEMENT UNREADABLE OR UNUSABLE: SOCIAL

1 SECURITY NUMBER; STUDENT, MILITARY, OR PASSPORT IDENTIFICATION  
2 NUMBER; DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER;  
3 ACCOUNT NUMBER OR CREDIT CARD OR DEBIT CARD NUMBER; MEDICAL  
4 INFORMATION; HEALTH INSURANCE IDENTIFICATION NUMBER; OR  
5 BIOMETRIC DATA; OR

6 (B) A COLORADO RESIDENT'S USERNAME OR E-MAIL ADDRESS, IN  
7 COMBINATION WITH A PASSWORD OR SECURITY QUESTIONS AND ANSWERS,  
8 THAT WOULD PERMIT ACCESS TO AN ONLINE ACCOUNT.

9 (II) "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY  
10 AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE  
11 GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT  
12 RECORDS OR WIDELY DISTRIBUTED MEDIA.

13 (h) "SECURITY BREACH" MEANS THE UNAUTHORIZED ACQUISITION  
14 OF UNENCRYPTED COMPUTERIZED DATA THAT COMPROMISES THE  
15 SECURITY, CONFIDENTIALITY, OR INTEGRITY OF PERSONAL INFORMATION  
16 MAINTAINED BY AN INDIVIDUAL OR A COMMERCIAL ENTITY. GOOD FAITH  
17 ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF  
18 AN INDIVIDUAL OR COMMERCIAL ENTITY FOR THE INDIVIDUAL OR  
19 COMMERCIAL ENTITY'S BUSINESS PURPOSES IS NOT A SECURITY BREACH IF  
20 THE PERSONAL INFORMATION IS NOT USED FOR A PURPOSE UNRELATED TO  
21 THE LAWFUL OPERATION OF THE BUSINESS OR IS NOT SUBJECT TO FURTHER  
22 UNAUTHORIZED DISCLOSURE.

23 (2) **Disclosure of breach.** (a) An individual or a commercial  
24 entity ~~that conducts business in Colorado and that~~ MAINTAINS, owns, or  
25 licenses computerized data that includes personal information about a  
26 resident of Colorado shall, when it ~~becomes aware of a breach, of the~~  
27 ~~security of the system~~ DETERMINES THAT A SECURITY BREACH HAS

1 OCCURRED, conduct in good faith a prompt investigation to determine the  
2 likelihood that personal information has been or will be misused. The  
3 individual or the commercial entity shall give notice as soon as possible  
4 to the affected Colorado resident RESIDENTS unless the investigation  
5 determines that the misuse of information about a Colorado resident has  
6 not occurred and is not reasonably likely to occur. Notice shall MUST be  
7 made in the most expedient time possible and without unreasonable delay,  
8 BUT NOT LATER THAN THIRTY DAYS AFTER THE DATE OF DETERMINATION  
9 THAT A SECURITY BREACH OCCURRED, consistent with the legitimate needs  
10 of law enforcement and consistent with any measures necessary to  
11 determine the scope of the breach and to restore the reasonable integrity  
12 of the computerized data system.

13 (a.2) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBSECTION (2)(a.3)  
14 OF THIS SECTION, IN THE CASE OF A BREACH OF PERSONAL INFORMATION,  
15 NOTICE REQUIRED BY THIS SUBSECTION (2) TO AFFECTED COLORADO  
16 RESIDENTS MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING  
17 INFORMATION:

18 (I) THE DATE, ESTIMATED DATE, OR ESTIMATED DATE RANGE OF  
19 THE SECURITY BREACH;

20 (II) A DESCRIPTION OF THE PERSONAL INFORMATION THAT WAS  
21 ACQUIRED OR REASONABLY BELIEVED TO HAVE BEEN ACQUIRED AS PART  
22 OF THE SECURITY BREACH;

23 (III) INFORMATION THAT THE RESIDENT CAN USE TO CONTACT THE  
24 INDIVIDUAL OR COMMERCIAL ENTITY THAT WAS BREACHED TO INQUIRE  
25 ABOUT THE SECURITY BREACH;

26 (IV) THE TOLL-FREE NUMBERS, ADDRESSES, AND WEBSITES FOR  
27 CONSUMER REPORTING AGENCIES;

1 (V) THE TOLL-FREE NUMBER, ADDRESS, AND WEBSITE FOR THE  
2 FEDERAL TRADE COMMISSION; AND

3 (VI) A STATEMENT THAT THE RESIDENT CAN OBTAIN INFORMATION  
4 FROM THE FEDERAL TRADE COMMISSION AND THE CREDIT REPORTING  
5 AGENCIES ABOUT FRAUD ALERTS AND SECURITY FREEZES.

6 (a.3) IF NOTICE OF A SECURITY BREACH INVOLVING PERSONAL  
7 INFORMATION, AS DEFINED IN SUBSECTION (1)(g)(I)(B) OF THIS SECTION,  
8 IS GIVEN NO LATER THAN FIVE DAYS AFTER THE DETERMINATION THAT A  
9 SECURITY BREACH OCCURRED, CONSISTENT WITH THE LEGITIMATE NEEDS  
10 OF LAW ENFORCEMENT AND CONSISTENT WITH ANY MEASURES NECESSARY  
11 TO DETERMINE THE SCOPE OF THE BREACH AND TO RESTORE THE  
12 REASONABLE INTEGRITY OF THE COMPUTERIZED DATA SYSTEM, NOTICE  
13 MAY BE GIVEN AS FOLLOWS, INSTEAD OF AS OUTLINED IN SUBSECTION  
14 (2)(a.2) OF THIS SECTION:

15 (I) THE INDIVIDUAL OR COMMERCIAL ENTITY MAY PROVIDE THE  
16 SECURITY BREACH NOTIFICATION IN ELECTRONIC OR OTHER FORM THAT  
17 DIRECTS THE PERSON WHOSE PERSONAL INFORMATION HAS BEEN  
18 BREACHED TO PROMPTLY CHANGE HIS OR HER PASSWORD AND SECURITY  
19 QUESTION OR ANSWER, AS APPLICABLE, OR TO TAKE OTHER STEPS  
20 APPROPRIATE TO PROTECT THE ONLINE ACCOUNT WITH THE PERSON OR  
21 BUSINESS AND ALL OTHER ONLINE ACCOUNTS FOR WHICH THE PERSON  
22 WHOSE PERSONAL INFORMATION HAS BEEN BREACHED THAT USES THE  
23 SAME USER NAME OR E-MAIL ADDRESS AND PASSWORD OR SECURITY  
24 QUESTION OR ANSWER.

25 (II) FOR LOG-IN CREDENTIALS OF AN E-MAIL ACCOUNT FURNISHED  
26 BY THE INDIVIDUAL OR COMMERCIAL ENTITY, THE INDIVIDUAL OR  
27 COMMERCIAL ENTITY SHALL NOT COMPLY WITH THIS SECTION BY

1 PROVIDING THE SECURITY BREACH NOTIFICATION TO THAT E-MAIL  
2 ADDRESS, BUT MAY INSTEAD COMPLY WITH THIS SECTION BY PROVIDING  
3 NOTICE, AS DEFINED IN SUBSECTION (1)(f) OF THIS SECTION, OR BY CLEAR  
4 AND CONSPICUOUS NOTICE DELIVERED TO THE RESIDENT ONLINE WHEN  
5 THE RESIDENT IS CONNECTED TO THE ONLINE ACCOUNT FROM AN INTERNET  
6 PROTOCOL ADDRESS OR ONLINE LOCATION FROM WHICH THE INDIVIDUAL  
7 OR COMMERCIAL ENTITY KNOWS THE RESIDENT CUSTOMARILY ACCESSES  
8 THE ACCOUNT.

9 (a.4) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED  
10 PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
11 SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
12 MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED IN  
13 THE SECURITY BREACH OR WAS REASONABLY BELIEVED TO HAVE BEEN  
14 ACQUIRED.

15 (a.5) AN INDIVIDUAL OR COMMERCIAL ENTITY THAT IS REQUIRED  
16 TO PROVIDE NOTICE TO AFFECTED COLORADO RESIDENTS PURSUANT TO  
17 THIS SUBSECTION (2) IS PROHIBITED FROM CHARGING THE COST OF  
18 PROVIDING SUCH NOTICE TO SUCH RESIDENTS.

19 (a.6) NOTHING IN THIS SUBSECTION (2) PROHIBITS THE NOTICE  
20 DESCRIBED IN THIS SUBSECTION (2) FROM CONTAINING ADDITIONAL  
21 INFORMATION, INCLUDING ANY INFORMATION THAT MAY BE REQUIRED BY  
22 STATE OR FEDERAL LAW.

23 (b) IF AN INDIVIDUAL OR A COMMERCIAL ENTITY ~~that maintains~~ USES A  
24 THIRD-PARTY SERVICE PROVIDER TO MAINTAIN computerized data that  
25 includes personal information, ~~that the individual or the commercial~~  
26 ~~entity does not own or license~~ THEN THE THIRD-PARTY SERVICE PROVIDER  
27 shall give notice to and cooperate with ~~the owner or licensee of the~~

1 ~~information of any breach of the security of the system immediately~~ THE  
2 INDIVIDUAL OR COMMERCIAL ENTITY IN THE EVENT OF A SECURITY  
3 BREACH THAT COMPROMISES SUCH COMPUTERIZED DATA, INCLUDING  
4 NOTIFYING THE INDIVIDUAL OR COMMERCIAL ENTITY OF ANY SECURITY  
5 BREACH AS SOON AS POSSIBLE AND WITHOUT UNREASONABLE DELAY  
6 following discovery of a SECURITY breach, if misuse of personal  
7 information about a Colorado resident occurred or is likely to occur.  
8 Cooperation includes sharing with the owner or licensee information  
9 relevant to the SECURITY breach; except that such cooperation ~~shall not~~  
10 ~~be deemed to~~ DOES NOT require the disclosure of confidential business  
11 information or trade secrets.

12 (c) Notice required by this section may be delayed if a law  
13 enforcement agency determines that the notice will impede a criminal  
14 investigation and the law enforcement agency has notified the individual  
15 or commercial entity that conducts business in Colorado not to send  
16 notice required by this section. Notice required by this section ~~shall~~ MUST  
17 be made in good faith, without unreasonable delay ~~and as soon as possible~~  
18 BUT NOT LATER THAN THIRTY DAYS after the law enforcement agency  
19 determines that notification will no longer impede the investigation and  
20 has notified the individual or commercial entity that conducts business in  
21 Colorado that it is appropriate to send the notice required by this section.

22 (d) If an individual or commercial entity is required to notify more  
23 than one thousand Colorado residents of a SECURITY breach ~~of the~~  
24 ~~security of the system~~ pursuant to this section, the individual or  
25 commercial entity shall also notify, without unreasonable delay, all  
26 consumer reporting agencies that compile and maintain files on  
27 consumers on a nationwide basis, as defined by THE FEDERAL "FAIR

1 CREDIT REPORTING ACT", 15 U.S.C. sec. 1681a (p), of the anticipated  
2 date of the notification to the residents and the approximate number of  
3 residents who are to be notified. Nothing in this paragraph (d) shall be  
4 construed to require SUBSECTION (2)(d) REQUIRES the individual or  
5 commercial entity to provide to the consumer reporting agency the names  
6 or other personal information of SECURITY breach notice recipients. This  
7 paragraph (d) shall SUBSECTION (2)(d) DOES not apply to a person who is  
8 subject to Title V of the federal "Gramm-Leach-Bliley Act", 15 U.S.C.  
9 sec. 6801 et seq.

10 (e) A WAIVER OF THESE NOTIFICATION RIGHTS OR  
11 RESPONSIBILITIES IS VOID AS AGAINST PUBLIC POLICY.

12 (f) (I) THE INDIVIDUAL OR COMMERCIAL ENTITY THAT WAS  
13 BREACHED SHALL PROVIDE NOTICE OF ANY SECURITY BREACH TO THE  
14 COLORADO ATTORNEY GENERAL AS SOON AS PRACTICABLE BUT NOT  
15 LATER THAN THIRTY DAYS AFTER THE DATE OF DETERMINATION THAT A  
16 SECURITY BREACH OCCURRED IF THE SECURITY BREACH IS REASONABLY  
17 BELIEVED TO HAVE AFFECTED FIVE HUNDRED COLORADO RESIDENTS OR  
18 MORE, UNLESS THE INVESTIGATION DETERMINES THAT THE MISUSE OF  
19 INFORMATION ABOUT A COLORADO RESIDENT HAS NOT OCCURRED AND IS  
20 NOT LIKELY TO OCCUR.

21 (II) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED  
22 PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
23 SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
24 MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED OR  
25 WAS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED IN THE SECURITY  
26 BREACH.

27 (3) Procedures deemed in compliance with notice

1 **requirements.** (a) ~~Under~~ PURSUANT TO this section, an individual or a  
2 commercial entity that maintains its own notification procedures as part  
3 of an information security policy for the treatment of personal  
4 information and whose procedures are otherwise consistent with the  
5 timing requirements of this section ~~shall be deemed to be~~ IS in compliance  
6 with the notice requirements of this section if the individual or the  
7 commercial entity notifies affected Colorado customers in accordance  
8 with its policies in the event of a ~~breach of security of the system~~  
9 SECURITY BREACH; EXCEPT THAT NOTICE TO THE ATTORNEY GENERAL IS  
10 STILL REQUIRED PURSUANT TO SUBSECTION (2)(f) OF THIS SECTION.

11 (b) An individual or a commercial entity that is regulated by state  
12 or federal law and that maintains procedures for a SECURITY breach ~~of the~~  
13 ~~security of the system~~ pursuant to the laws, rules, regulations, guidances,  
14 or guidelines established by its ~~primary or functional~~ state or federal  
15 regulator is ~~deemed to be~~ in compliance with this section; EXCEPT THAT  
16 NOTICE TO THE ATTORNEY GENERAL IS STILL REQUIRED PURSUANT TO  
17 SUBSECTION (2)(f) OF THIS SECTION. IN THE CASE OF A CONFLICT BETWEEN  
18 THE TIME PERIOD FOR NOTICE TO INDIVIDUALS THAT IS REQUIRED  
19 PURSUANT TO THIS SUBSECTION (2) AND THE APPLICABLE STATE OR  
20 FEDERAL LAW OR REGULATION, THE LAW OR REGULATION WITH THE  
21 SHORTEST TIME FRAME FOR NOTICE TO THE INDIVIDUAL CONTROLS.

22 (4) **Violations.** The attorney general may bring an action in law  
23 or equity to address violations of this section, SECTION 6-1-713, OR  
24 SECTION 6-1-713.5, and for other relief that may be appropriate to ensure  
25 compliance with this section or to recover direct economic damages  
26 resulting from a violation, or both. The provisions of this section are not  
27 exclusive and do not relieve an individual or a commercial entity subject

1 to this section from compliance with all other applicable provisions of  
2 law.

3 (5) **Attorney general criminal authority.** UPON RECEIPT OF  
4 NOTICE PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND WITH EITHER  
5 A REQUEST FROM THE GOVERNOR TO PROSECUTE A PARTICULAR CASE OR  
6 WITH THE APPROVAL OF THE DISTRICT ATTORNEY WITH JURISDICTION TO  
7 PROSECUTE CASES IN THE JUDICIAL DISTRICT WHERE A CASE HAS BEEN,  
8 WILL BE, OR COULD BE BROUGHT, THE ATTORNEY GENERAL HAS THE  
9 AUTHORITY TO PROSECUTE ANY CRIMINAL VIOLATIONS OF SECTION  
10 18-5.5-102.

11 **SECTION 4.** In Colorado Revised Statutes, **add** article 73 to title  
12 24 as follows:

13 **ARTICLE 73**

14 **Security Breaches and Personal Information**

15 **24-73-101. Governmental entity - disposal of personal**  
16 **identifying information - policy - definitions.** (1) EACH  
17 GOVERNMENTAL ENTITY IN THE STATE THAT MAINTAINS PAPER OR  
18 ELECTRONIC DOCUMENTS DURING THE COURSE OF BUSINESS THAT  
19 CONTAIN PERSONAL IDENTIFYING INFORMATION SHALL DEVELOP A  
20 WRITTEN POLICY FOR THE DESTRUCTION OR PROPER DISPOSAL OF THOSE  
21 PAPER AND ELECTRONIC DOCUMENTS CONTAINING PERSONAL IDENTIFYING  
22 INFORMATION. UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW  
23 OR REGULATION, THE WRITTEN POLICY MUST REQUIRE THAT, WHEN SUCH  
24 PAPER OR ELECTRONIC DOCUMENTS ARE NO LONGER NEEDED, THE  
25 GOVERNMENTAL ENTITY DESTROY OR ARRANGE FOR THE DESTRUCTION OF  
26 SUCH PAPER AND ELECTRONIC DOCUMENTS WITHIN ITS CUSTODY OR  
27 CONTROL THAT CONTAIN PERSONAL IDENTIFYING INFORMATION BY

1 SHREDDING, ERASING, OR OTHERWISE MODIFYING THE PERSONAL  
2 IDENTIFYING INFORMATION IN THE PAPER OR ELECTRONIC DOCUMENTS TO  
3 MAKE THE PERSONAL IDENTIFYING INFORMATION UNREADABLE OR  
4 INDECIPHERABLE THROUGH ANY MEANS.

5 (2) A GOVERNMENTAL ENTITY THAT IS REGULATED BY STATE OR  
6 FEDERAL LAW AND THAT MAINTAINS PROCEDURES FOR DISPOSAL OF  
7 PERSONAL IDENTIFYING INFORMATION PURSUANT TO THE LAWS, RULES,  
8 REGULATIONS, GUIDANCES, OR GUIDELINES ESTABLISHED BY ITS STATE OR  
9 FEDERAL REGULATOR IS IN COMPLIANCE WITH THIS SECTION.

10 (3) UNLESS A GOVERNMENTAL ENTITY SPECIFICALLY CONTRACTS  
11 WITH A RECYCLER OR DISPOSAL FIRM FOR DESTRUCTION OF DOCUMENTS  
12 THAT CONTAIN PERSONAL IDENTIFYING INFORMATION, NOTHING IN THIS  
13 SECTION REQUIRES A RECYCLER OR DISPOSAL FIRM TO VERIFY THAT THE  
14 DOCUMENTS CONTAINED IN THE PRODUCTS IT RECEIVES FOR DISPOSAL OR  
15 RECYCLING HAVE BEEN PROPERLY DESTROYED OR DISPOSED OF AS  
16 REQUIRED BY THIS SECTION.

17 (4) FOR THE PURPOSES OF THIS SECTION AND SECTION 24-73-102,  
18 UNLESS THE CONTEXT OTHERWISE REQUIRES:

19 (a) "GOVERNMENTAL ENTITY" MEANS THE STATE AND ANY STATE  
20 AGENCY OR INSTITUTION, COUNTY, CITY AND COUNTY, INCORPORATED  
21 CITY OR TOWN, SCHOOL DISTRICT, SPECIAL IMPROVEMENT DISTRICT,  
22 AUTHORITY, AND EVERY OTHER KIND OF DISTRICT, INSTRUMENTALITY, OR  
23 POLITICAL SUBDIVISION OF THE STATE ORGANIZED PURSUANT TO LAW.  
24 "GOVERNMENTAL ENTITY" INCLUDES ENTITIES GOVERNED BY HOME RULE  
25 CHARTERS.

26 (b) "PERSONAL IDENTIFYING INFORMATION" MEANS A SOCIAL  
27 SECURITY NUMBER; A PERSONAL IDENTIFICATION NUMBER; A PASSWORD;

1 A PASS CODE; AN OFFICIAL STATE OR GOVERNMENT-ISSUED DRIVER'S  
2 LICENSE OR IDENTIFICATION CARD NUMBER; A GOVERNMENT PASSPORT  
3 NUMBER; BIOMETRIC DATA; AN EMPLOYER, STUDENT, OR MILITARY  
4 IDENTIFICATION NUMBER; OR A FINANCIAL TRANSACTION DEVICE, AS  
5 DEFINED IN SECTION 18-5-701 (3).

6 **24-73-102. Governmental entity - protection of personal**  
7 **identifying information.** (1) TO PROTECT PERSONAL IDENTIFYING  
8 INFORMATION, AS DEFINED IN SECTION 24-73-101 (4)(b), FROM  
9 UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR  
10 DESTRUCTION, A GOVERNMENTAL ENTITY THAT MAINTAINS, OWNS, OR  
11 LICENSES PERSONAL IDENTIFYING INFORMATION SHALL IMPLEMENT AND  
12 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT ARE  
13 APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
14 INFORMATION AND THE NATURE AND SIZE OF THE GOVERNMENTAL ENTITY.

15 (2) A GOVERNMENTAL ENTITY THAT USES A NONAFFILIATED THIRD  
16 PARTY AS A SERVICE PROVIDER TO PERFORM SERVICES FOR THE  
17 GOVERNMENTAL ENTITY AND DISCLOSES PERSONAL IDENTIFYING  
18 INFORMATION ABOUT AN INDIVIDUAL RESIDING IN THE STATE WITH THE  
19 NONAFFILIATED THIRD PARTY SHALL REQUIRE THAT THE NONAFFILIATED  
20 THIRD PARTY IMPLEMENT AND MAINTAIN REASONABLE SECURITY  
21 PROCEDURES AND PRACTICES THAT ARE:

22 (a) APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
23 INFORMATION DISCLOSED TO THE NONAFFILIATED THIRD PARTY; AND

24 (b) REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL  
25 IDENTIFYING INFORMATION FROM UNAUTHORIZED ACCESS, USE,  
26 MODIFICATION, DISCLOSURE, OR DESTRUCTION.

27 (3) FOR THE PURPOSES OF SUBSECTION (2) OF THIS SECTION, A

1 DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION DOES NOT INCLUDE  
2 DISCLOSURE OF INFORMATION TO A NONAFFILIATED THIRD PARTY UNDER  
3 CIRCUMSTANCES WHERE THE GOVERNMENTAL ENTITY RETAINS PRIMARY  
4 RESPONSIBILITY FOR IMPLEMENTING AND MAINTAINING REASONABLE  
5 SECURITY PROCEDURES AND PRACTICES APPROPRIATE TO THE NATURE OF  
6 THE PERSONAL IDENTIFYING INFORMATION AND THE GOVERNMENTAL  
7 ENTITY IMPLEMENTS AND MAINTAINS TECHNICAL CONTROLS REASONABLY  
8 DESIGNED TO:

9 (a) HELP PROTECT THE PERSONAL IDENTIFYING INFORMATION  
10 FROM UNAUTHORIZED ACCESS, MODIFICATION, DISCLOSURE, OR  
11 DESTRUCTION; OR

12 (b) EFFECTIVELY ELIMINATE THE NONAFFILIATED THIRD PARTY'S  
13 ABILITY TO ACCESS THE PERSONAL IDENTIFYING INFORMATION,  
14 NOTWITHSTANDING THE THIRD PARTY'S PHYSICAL POSSESSION OF THE  
15 PERSONAL IDENTIFYING INFORMATION.

16 (4) A GOVERNMENTAL ENTITY THAT IS REGULATED BY STATE OR  
17 FEDERAL LAW AND THAT MAINTAINS PROCEDURES FOR STORAGE OF  
18 PERSONAL IDENTIFYING INFORMATION PURSUANT TO THE LAWS, RULES,  
19 REGULATIONS, GUIDANCES, OR GUIDELINES ESTABLISHED BY ITS STATE OR  
20 FEDERAL REGULATOR IS IN COMPLIANCE WITH THIS SECTION.

21 **24-73-103. Governmental entity - notification of security**  
22 **breach. (1) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT  
23 OTHERWISE REQUIRES:

24 (a) "BIOMETRIC DATA" MEANS UNIQUE BIOMETRIC DATA  
25 GENERATED FROM MEASUREMENTS OR ANALYSIS OF HUMAN BODY  
26 CHARACTERISTICS FOR THE PURPOSE OF AUTHENTICATING THE INDIVIDUAL  
27 WHEN HE OR SHE ACCESSES AN ONLINE ACCOUNT.

1 (b) "DETERMINATION THAT A SECURITY BREACH OCCURRED"  
2 MEANS THE POINT IN TIME AT WHICH THERE IS SUFFICIENT EVIDENCE TO  
3 CONCLUDE THAT A SECURITY BREACH HAS TAKEN PLACE.

4 (c) "ENCRYPTED" MEANS RENDERED UNUSABLE, UNREADABLE, OR  
5 INDECIPHERABLE TO AN UNAUTHORIZED PERSON THROUGH A SECURITY  
6 TECHNOLOGY OR METHODOLOGY GENERALLY ACCEPTED IN THE FIELD OF  
7 INFORMATION SECURITY.

8 (d) "GOVERNMENTAL ENTITY" MEANS THE STATE AND ANY STATE  
9 AGENCY OR INSTITUTION, COUNTY, CITY AND COUNTY, INCORPORATED  
10 CITY OR TOWN, SCHOOL DISTRICT, SPECIAL IMPROVEMENT DISTRICT,  
11 AUTHORITY, AND EVERY OTHER KIND OF DISTRICT, INSTRUMENTALITY, OR  
12 POLITICAL SUBDIVISION OF THE STATE ORGANIZED PURSUANT TO LAW.  
13 "GOVERNMENTAL ENTITY" INCLUDES ENTITIES GOVERNED BY HOME RULE  
14 CHARTERS.

15 (e) "MEDICAL INFORMATION" MEANS ANY INFORMATION ABOUT A  
16 CONSUMER'S MEDICAL OR MENTAL HEALTH TREATMENT OR DIAGNOSIS BY  
17 A HEALTH CARE PROFESSIONAL.

18 (f) "NOTICE" MEANS:

19 (I) WRITTEN NOTICE TO THE POSTAL ADDRESS LISTED IN THE  
20 RECORDS OF THE GOVERNMENTAL ENTITY;

21 (II) TELEPHONIC NOTICE;

22 (III) ELECTRONIC NOTICE, IF A PRIMARY MEANS OF  
23 COMMUNICATION BY THE GOVERNMENTAL ENTITY WITH A COLORADO  
24 RESIDENT IS BY ELECTRONIC MEANS OR THE NOTICE PROVIDED IS  
25 CONSISTENT WITH THE PROVISIONS REGARDING ELECTRONIC RECORDS AND  
26 SIGNATURES SET FORTH IN THE FEDERAL "ELECTRONIC SIGNATURES IN  
27 GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ.;

1 OR

2 (IV) SUBSTITUTE NOTICE, IF THE GOVERNMENTAL ENTITY  
3 REQUIRED TO PROVIDE NOTICE DEMONSTRATES THAT THE COST OF  
4 PROVIDING NOTICE WILL EXCEED TWO HUNDRED FIFTY THOUSAND  
5 DOLLARS, THE AFFECTED CLASS OF PERSONS TO BE NOTIFIED EXCEEDS TWO  
6 HUNDRED FIFTY THOUSAND COLORADO RESIDENTS, OR THE  
7 GOVERNMENTAL ENTITY DOES NOT HAVE SUFFICIENT CONTACT  
8 INFORMATION TO PROVIDE NOTICE. SUBSTITUTE NOTICE CONSISTS OF ALL  
9 OF THE FOLLOWING:

10 (A) E-MAIL NOTICE IF THE GOVERNMENTAL ENTITY HAS E-MAIL  
11 ADDRESSES FOR THE MEMBERS OF THE AFFECTED CLASS OF COLORADO  
12 RESIDENTS;

13 (B) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE PAGE  
14 OF THE GOVERNMENTAL ENTITY IF THE GOVERNMENTAL ENTITY  
15 MAINTAINS ONE; AND

16 (C) NOTIFICATION TO MAJOR STATEWIDE MEDIA.

17 (g) (I) (A) "PERSONAL INFORMATION" MEANS A COLORADO  
18 RESIDENT'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION  
19 WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS THAT  
20 RELATE TO THE RESIDENT, WHEN THE DATA ELEMENTS ARE NOT  
21 ENCRYPTED, REDACTED, OR SECURED BY ANY OTHER METHOD RENDERING  
22 THE NAME OR THE ELEMENT UNREADABLE OR UNUSABLE: SOCIAL  
23 SECURITY NUMBER; DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD  
24 NUMBER; STUDENT, MILITARY, OR PASSPORT IDENTIFICATION NUMBER;  
25 ACCOUNT NUMBER OR CREDIT CARD OR DEBIT CARD NUMBER; MEDICAL  
26 INFORMATION; HEALTH INSURANCE IDENTIFICATION NUMBER; OR  
27 BIOMETRIC DATA; OR

1 (B) A COLORADO RESIDENT'S USER NAME OR E-MAIL ADDRESS, IN  
2 COMBINATION WITH A PASSWORD OR SECURITY QUESTIONS AND ANSWERS,  
3 THAT WOULD PERMIT ACCESS TO AN ONLINE ACCOUNT.

4 (II) "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY  
5 AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE  
6 GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT  
7 RECORDS OR WIDELY DISTRIBUTED MEDIA.

8 (h) "SECURITY BREACH" MEANS THE UNAUTHORIZED ACQUISITION  
9 OF UNENCRYPTED COMPUTERIZED DATA THAT COMPROMISES THE  
10 SECURITY, CONFIDENTIALITY, OR INTEGRITY OF PERSONAL INFORMATION  
11 MAINTAINED BY A GOVERNMENTAL ENTITY. GOOD FAITH ACQUISITION OF  
12 PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A  
13 GOVERNMENTAL ENTITY FOR THE PURPOSES OF THE GOVERNMENTAL  
14 ENTITY IS NOT A SECURITY BREACH IF THE PERSONAL INFORMATION IS NOT  
15 USED FOR A PURPOSE UNRELATED TO THE LAWFUL GOVERNMENT PURPOSE  
16 OR IS NOT SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE.

17 (2) **Disclosure of breach.** (a) A GOVERNMENTAL ENTITY THAT  
18 MAINTAINS, OWNS, OR LICENSES COMPUTERIZED DATA THAT INCLUDES  
19 PERSONAL INFORMATION ABOUT A RESIDENT OF COLORADO SHALL, WHEN  
20 IT DETERMINES THAT A SECURITY BREACH HAS OCCURRED, CONDUCT IN  
21 GOOD FAITH A PROMPT INVESTIGATION TO DETERMINE THE LIKELIHOOD  
22 THAT PERSONAL INFORMATION HAS BEEN OR WILL BE MISUSED. THE  
23 GOVERNMENTAL ENTITY SHALL GIVE NOTICE TO THE AFFECTED COLORADO  
24 RESIDENTS UNLESS THE INVESTIGATION DETERMINES THAT THE MISUSE OF  
25 INFORMATION ABOUT A COLORADO RESIDENT HAS NOT OCCURRED AND IS  
26 NOT REASONABLY LIKELY TO OCCUR. NOTICE MUST BE MADE IN THE MOST  
27 EXPEDIENT TIME POSSIBLE AND WITHOUT UNREASONABLE DELAY, BUT NOT

1 LATER THAN THIRTY DAYS AFTER THE DATE OF DETERMINATION THAT A  
2 SECURITY BREACH OCCURRED, CONSISTENT WITH THE LEGITIMATE NEEDS  
3 OF LAW ENFORCEMENT AND CONSISTENT WITH ANY MEASURES NECESSARY  
4 TO DETERMINE THE SCOPE OF THE BREACH AND TO RESTORE THE  
5 REASONABLE INTEGRITY OF THE COMPUTERIZED DATA SYSTEM.

6 (b) EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(c) OF THIS  
7 SECTION, IN THE CASE OF A BREACH OF PERSONAL INFORMATION, NOTICE  
8 REQUIRED BY THIS SUBSECTION (2) TO AFFECTED COLORADO RESIDENTS  
9 MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING  
10 INFORMATION:

11 (I) THE DATE, ESTIMATED DATE, OR ESTIMATED DATE RANGE OF  
12 THE SECURITY BREACH;

13 (II) A DESCRIPTION OF THE PERSONAL INFORMATION THAT WAS  
14 ACQUIRED OR REASONABLY BELIEVED TO HAVE BEEN ACQUIRED AS PART  
15 OF THE SECURITY BREACH;

16 (III) INFORMATION THAT THE RESIDENT CAN USE TO CONTACT THE  
17 GOVERNMENTAL ENTITY THAT WAS BREACHED TO INQUIRE ABOUT THE  
18 SECURITY BREACH;

19 (IV) THE TOLL-FREE NUMBERS, ADDRESSES, AND WEBSITES FOR  
20 CONSUMER REPORTING AGENCIES;

21 (V) THE TOLL-FREE NUMBER, ADDRESS, AND WEBSITE FOR THE  
22 FEDERAL TRADE COMMISSION; AND

23 (VI) A STATEMENT THAT THE RESIDENT CAN OBTAIN INFORMATION  
24 FROM THE FEDERAL TRADE COMMISSION AND THE CREDIT REPORTING  
25 AGENCIES ABOUT FRAUD ALERTS AND SECURITY FREEZES.

26 (c) IF NOTICE OF A SECURITY BREACH INVOLVING PERSONAL  
27 INFORMATION, AS DEFINED IN SUBSECTION (1)(g)(I)(B) OF THIS SECTION,

1 IS GIVEN NO LATER THAN FIVE DAYS AFTER THE DETERMINATION THAT A  
2 SECURITY BREACH OCCURRED, CONSISTENT WITH THE LEGITIMATE NEEDS  
3 OF LAW ENFORCEMENT AND CONSISTENT WITH ANY MEASURES NECESSARY  
4 TO DETERMINE THE SCOPE OF THE BREACH AND TO RESTORE THE  
5 REASONABLE INTEGRITY OF THE COMPUTERIZED DATA SYSTEM, NOTICE  
6 MAY BE GIVEN AS FOLLOWS RATHER THAN AS OUTLINED IN SUBSECTION  
7 (2)(a) OF THIS SECTION:

8 (I) THE GOVERNMENTAL ENTITY MAY PROVIDE THE SECURITY  
9 BREACH NOTIFICATION IN ELECTRONIC OR OTHER FORM THAT DIRECTS THE  
10 PERSON WHOSE PERSONAL INFORMATION HAS BEEN BREACHED TO  
11 PROMPTLY CHANGE HIS OR HER PASSWORD AND SECURITY QUESTION OR  
12 ANSWER, AS APPLICABLE, OR TO TAKE OTHER STEPS APPROPRIATE TO  
13 PROTECT THE ONLINE ACCOUNT WITH THE PERSON OR BUSINESS AND ALL  
14 OTHER ONLINE ACCOUNTS FOR WHICH THE PERSON WHOSE PERSONAL  
15 INFORMATION HAS BEEN BREACHED THAT USES THE SAME USERNAME OR  
16 E-MAIL ADDRESS AND PASSWORD OR SECURITY QUESTION OR ANSWER.

17 (II) FOR LOG-IN CREDENTIALS OF AN E-MAIL ACCOUNT FURNISHED  
18 BY THE GOVERNMENTAL ENTITY, THE GOVERNMENTAL ENTITY SHALL NOT  
19 COMPLY WITH THIS SECTION BY PROVIDING THE SECURITY BREACH  
20 NOTIFICATION TO THAT E-MAIL ADDRESS, BUT MAY INSTEAD COMPLY WITH  
21 THIS SECTION BY PROVIDING NOTICE, AS DEFINED IN SUBSECTION (1)(f) OF  
22 THIS SECTION, OR BY CLEAR AND CONSPICUOUS NOTICE DELIVERED TO THE  
23 RESIDENT ONLINE WHEN THE RESIDENT IS CONNECTED TO THE ONLINE  
24 ACCOUNT FROM AN INTERNET PROTOCOL ADDRESS OR ONLINE LOCATION  
25 FROM WHICH THE GOVERNMENTAL ENTITY KNOWS THE RESIDENT  
26 CUSTOMARILY ACCESSES THE ACCOUNT.

27 (d) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED

1 PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
2 SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
3 MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED IN  
4 THE SECURITY BREACH OR WAS REASONABLY BELIEVED TO HAVE BEEN  
5 ACQUIRED.

6 (e) A GOVERNMENTAL ENTITY THAT IS REQUIRED TO PROVIDE  
7 NOTICE PURSUANT TO THIS SUBSECTION (2) IS PROHIBITED FROM CHARGING  
8 THE COST OF PROVIDING SUCH NOTICE TO INDIVIDUALS.

9 (f) NOTHING IN THIS SUBSECTION (2) PROHIBITS THE NOTICE  
10 DESCRIBED IN THIS SUBSECTION (2) FROM CONTAINING ADDITIONAL  
11 INFORMATION, INCLUDING ANY INFORMATION THAT MAY BE REQUIRED BY  
12 STATE OR FEDERAL LAW.

13 (g) IF A GOVERNMENTAL ENTITY USES A THIRD-PARTY SERVICE  
14 PROVIDER TO MAINTAIN COMPUTERIZED DATA THAT INCLUDES PERSONAL  
15 INFORMATION, THEN THE THIRD-PARTY SERVICE PROVIDER SHALL GIVE  
16 NOTICE TO AND COOPERATE WITH THE GOVERNMENTAL ENTITY IN THE  
17 EVENT OF A SECURITY BREACH THAT COMPROMISES SUCH COMPUTERIZED  
18 DATA, INCLUDING NOTIFYING THE GOVERNMENTAL ENTITY OF ANY  
19 SECURITY BREACH AS SOON AS POSSIBLE AND WITHOUT UNREASONABLE  
20 DELAY FOLLOWING DISCOVERY OF A SECURITY BREACH, IF MISUSE OF  
21 PERSONAL INFORMATION ABOUT A COLORADO RESIDENT OCCURRED OR IS  
22 LIKELY TO OCCUR. COOPERATION INCLUDES SHARING WITH THE OWNER OR  
23 LICENSEE INFORMATION RELEVANT TO THE SECURITY BREACH; EXCEPT  
24 THAT SUCH COOPERATION DOES NOT REQUIRE THE DISCLOSURE OF  
25 CONFIDENTIAL BUSINESS INFORMATION OR TRADE SECRETS.

26 (h) NOTICE REQUIRED BY THIS SECTION MAY BE DELAYED IF A LAW  
27 ENFORCEMENT AGENCY DETERMINES THAT THE NOTICE WILL IMPEDE A

1 CRIMINAL INVESTIGATION AND THE LAW ENFORCEMENT AGENCY HAS  
2 NOTIFIED THE GOVERNMENTAL ENTITY THAT OPERATES IN COLORADO NOT  
3 TO SEND NOTICE REQUIRED BY THIS SECTION. NOTICE REQUIRED BY THIS  
4 SECTION MUST BE MADE IN GOOD FAITH, WITHOUT UNREASONABLE DELAY  
5 BUT NOT LATER THAN THIRTY DAYS AFTER THE LAW ENFORCEMENT  
6 AGENCY DETERMINES THAT NOTIFICATION WILL NO LONGER IMPEDE THE  
7 INVESTIGATION AND HAS NOTIFIED THE GOVERNMENTAL ENTITY THAT IT  
8 IS APPROPRIATE TO SEND THE NOTICE REQUIRED BY THIS SECTION.

9 (i) IF A GOVERNMENTAL ENTITY IS REQUIRED TO NOTIFY MORE  
10 THAN ONE THOUSAND COLORADO RESIDENTS OF A SECURITY BREACH  
11 PURSUANT TO THIS SECTION, THE GOVERNMENTAL ENTITY SHALL ALSO  
12 NOTIFY, WITHOUT UNREASONABLE DELAY, ALL CONSUMER REPORTING  
13 AGENCIES THAT COMPILE AND MAINTAIN FILES ON CONSUMERS ON A  
14 NATIONWIDE BASIS, AS DEFINED BY THE FEDERAL "FAIR CREDIT  
15 REPORTING ACT", 15 U.S.C. SEC. 1681a (p), OF THE ANTICIPATED DATE OF  
16 THE NOTIFICATION TO THE RESIDENTS AND THE APPROXIMATE NUMBER OF  
17 RESIDENTS WHO ARE TO BE NOTIFIED. NOTHING IN THIS SUBSECTION (2)(i)  
18 REQUIRES THE GOVERNMENTAL ENTITY TO PROVIDE TO THE CONSUMER  
19 REPORTING AGENCY THE NAMES OR OTHER PERSONAL INFORMATION OF  
20 SECURITY BREACH NOTICE RECIPIENTS. THIS SUBSECTION (2)(i) DOES NOT  
21 APPLY TO A PERSON WHO IS SUBJECT TO TITLE V OF THE FEDERAL  
22 "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET SEQ.

23 (j) A WAIVER OF THESE NOTIFICATION RIGHTS OR RESPONSIBILITIES  
24 IS VOID AS AGAINST PUBLIC POLICY.

25 (k) (I) THE GOVERNMENTAL ENTITY THAT WAS BREACHED SHALL  
26 PROVIDE NOTICE OF ANY SECURITY BREACH TO THE COLORADO ATTORNEY  
27 GENERAL AS SOON AS PRACTICABLE BUT NOT LATER THAN THIRTY DAYS

1 AFTER THE DATE OF DETERMINATION THAT A SECURITY BREACH  
2 OCCURRED IF THE SECURITY BREACH IS REASONABLY BELIEVED TO HAVE  
3 AFFECTED FIVE HUNDRED COLORADO RESIDENTS OR MORE, UNLESS THE  
4 INVESTIGATION DETERMINES THAT THE MISUSE OF INFORMATION ABOUT  
5 A COLORADO RESIDENT HAS NOT OCCURRED AND IS NOT LIKELY TO OCCUR.

6 (II) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED  
7 PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
8 SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
9 MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED OR  
10 WAS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED IN THE SECURITY  
11 BREACH.

12 (3) **Procedures deemed in compliance with notice**  
13 **requirements.** (a) PURSUANT TO THIS SECTION, A GOVERNMENTAL  
14 ENTITY THAT MAINTAINS ITS OWN NOTIFICATION PROCEDURES AS PART OF  
15 AN INFORMATION SECURITY POLICY FOR THE TREATMENT OF PERSONAL  
16 INFORMATION AND WHOSE PROCEDURES ARE OTHERWISE CONSISTENT  
17 WITH THE TIMING REQUIREMENTS OF THIS SECTION IS IN COMPLIANCE WITH  
18 THE NOTICE REQUIREMENTS OF THIS SECTION IF THE GOVERNMENTAL  
19 ENTITY NOTIFIES AFFECTED COLORADO CUSTOMERS IN ACCORDANCE WITH  
20 ITS POLICIES IN THE EVENT OF A SECURITY BREACH; EXCEPT THAT NOTICE  
21 TO THE ATTORNEY GENERAL IS STILL REQUIRED PURSUANT TO SUBSECTION  
22 (2)(k) OF THIS SECTION.

23 (b) A GOVERNMENTAL ENTITY THAT IS REGULATED BY STATE OR  
24 FEDERAL LAW AND THAT MAINTAINS PROCEDURES FOR A SECURITY  
25 BREACH PURSUANT TO THE LAWS, RULES, REGULATIONS, GUIDANCES, OR  
26 GUIDELINES ESTABLISHED BY ITS STATE OR FEDERAL REGULATOR IS IN  
27 COMPLIANCE WITH THIS SECTION; EXCEPT THAT NOTICE TO THE ATTORNEY

1 GENERAL IS STILL REQUIRED PURSUANT TO SUBSECTION (2)(k) OF THIS  
2 SECTION. IN THE CASE OF A CONFLICT BETWEEN THE TIME PERIOD FOR  
3 NOTICE TO INDIVIDUALS, THE LAW OR REGULATION WITH THE SHORTEST  
4 NOTICE PERIOD CONTROLS.

5 (4) **Violations.** THE ATTORNEY GENERAL MAY BRING AN ACTION  
6 FOR INJUNCTIVE RELIEF TO ENFORCE THE PROVISIONS OF THIS SECTION.

7 (5) **Attorney general criminal authority.** UPON RECEIPT OF  
8 NOTICE PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND WITH EITHER  
9 A REQUEST FROM THE GOVERNOR TO PROSECUTE A PARTICULAR CASE OR  
10 WITH THE APPROVAL OF THE DISTRICT ATTORNEY WITH JURISDICTION TO  
11 PROSECUTE CASES IN THE JUDICIAL DISTRICT WHERE A CASE HAS BEEN,  
12 WILL BE, OR COULD BE BROUGHT, THE ATTORNEY GENERAL HAS THE  
13 AUTHORITY TO PROSECUTE ANY CRIMINAL VIOLATIONS OF SECTION  
14 18-5.5-102.

15 **SECTION 5. Effective date.** This act takes effect September 1,  
16 2018.

17 **SECTION 6. Safety clause.** The general assembly hereby finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, and safety.