

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0077.01 Thomas Morris x4218

SENATE BILL 21-190

SENATE SPONSORSHIP

Rodriguez and Lundeen,

HOUSE SPONSORSHIP

Duran and Carver,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PROTECTION OF DATA RELATING TO**
102 **PERSONAL PRIVACY.**

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>.)

The bill creates personal data privacy rights and:

- Applies to legal entities that conduct business or produce products or services that are intentionally targeted to Colorado residents and that either:
 - Control or process personal data of more than 100,000 consumers per calendar year; or

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.*

SENATE
Amended 2nd Reading
May 25, 2021

- Derive revenue from the sale of personal data and control or process the personal data of at least 25,000 consumers; and
- Does not apply to personal data governed by listed state and federal laws, listed activities, and employment records.

Consumers have the right to opt out of the processing of their personal data; access, correct, or delete the data; or obtain a portable copy of the data. The bill defines a "controller" as a person that, alone or jointly with others, determines the purposes and means of processing personal data. A "processor" means a person that processes personal data on behalf of a controller.

The bill:

- Specifies how controllers must fulfill duties regarding consumers' assertion of their rights, transparency, purpose specification, data minimization, avoiding secondary use, care, avoiding unlawful discrimination, and sensitive data;
- Requires controllers to conduct a data protection assessment for each of their processing activities involving personal data that present a heightened risk of harm to consumers, such as processing for purposes of targeted advertising or processing sensitive data; and
- May be enforced only by the attorney general or district attorneys.

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

2 **SECTION 1. In Colorado Revised Statutes, add part 13 to article**
 3 **1 of title 6 as follows:**

4 **PART 13**

5 **COLORADO PRIVACY ACT**

6 **6-1-1301. Short title. THE SHORT TITLE OF THIS PART 13 IS THE**
 7 **"COLORADO PRIVACY ACT".**

8 **6-1-1302. Legislative declaration. (1) THE GENERAL ASSEMBLY**
 9 **HEREBY:**

10 **(a) FINDS THAT:**

11 **(I) THE PEOPLE OF COLORADO REGARD THEIR PRIVACY AS A**
 12 **FUNDAMENTAL RIGHT AND AN ESSENTIAL ELEMENT OF THEIR INDIVIDUAL**

1 FREEDOM;

2 (II) COLORADO'S CONSTITUTION EXPLICITLY PROVIDES THE RIGHT
3 TO PRIVACY UNDER SECTION 7 OF ARTICLE II, AND FUNDAMENTAL PRIVACY
4 RIGHTS HAVE LONG BEEN, AND CONTINUE TO BE, INTEGRAL TO
5 PROTECTING COLORADANS AND TO SAFEGUARDING OUR DEMOCRATIC
6 REPUBLIC;

7 (III) ONGOING ADVANCES IN TECHNOLOGY HAVE PRODUCED
8 EXPONENTIAL GROWTH IN THE VOLUME AND VARIETY OF PERSONAL DATA
9 BEING GENERATED, COLLECTED, STORED, AND ANALYZED AND THESE
10 ADVANCES PRESENT BOTH PROMISE AND POTENTIAL PERIL;

11 (IV) THE ABILITY TO HARNESS AND USE DATA IN POSITIVE WAYS
12 IS DRIVING INNOVATION AND BRINGS BENEFICIAL TECHNOLOGIES TO
13 SOCIETY, BUT IT HAS ALSO CREATED RISKS TO PRIVACY AND FREEDOM;

14 AND

15 (V) THE UNAUTHORIZED DISCLOSURE OF PERSONAL INFORMATION
16 AND LOSS OF PRIVACY CAN HAVE DEVASTATING IMPACTS RANGING FROM
17 FINANCIAL FRAUD, IDENTITY THEFT, AND UNNECESSARY COSTS IN
18 PERSONAL TIME AND FINANCES TO DESTRUCTION OF PROPERTY,
19 HARASSMENT, REPUTATIONAL DAMAGE, EMOTIONAL DISTRESS, AND
20 PHYSICAL HARM;

21 (b) DETERMINES THAT:

22 (I) TECHNOLOGICAL INNOVATION AND NEW USES OF DATA CAN
23 HELP SOLVE SOCIETAL PROBLEMS AND IMPROVE LIVES, AND IT IS POSSIBLE
24 TO BUILD A WORLD WHERE TECHNOLOGICAL INNOVATION AND PRIVACY
25 CAN COEXIST; AND

26 (II) STATES ACROSS THE UNITED STATES ARE LOOKING TO THIS
27 PART 13 AND SIMILAR MODELS TO ENACT STATE-BASED DATA PRIVACY

1 REQUIREMENTS AND TO EXERCISE THE LEADERSHIP THAT IS LACKING AT
2 THE NATIONAL LEVEL; AND

3 (c) DECLARES THAT:

4 (I) BY ENACTING THIS PART 13, COLORADO WILL BE AMONG THE
5 STATES THAT EMPOWER CONSUMERS TO PROTECT THEIR PRIVACY AND
6 REQUIRE COMPANIES TO BE RESPONSIBLE CUSTODIANS OF DATA AS THEY
7 CONTINUE TO INNOVATE;

8 (II) THIS PART 13 ADDRESSES ISSUES OF STATEWIDE CONCERN
9 AND:

10 (A) PROVIDES CONSUMERS THE RIGHT TO ACCESS, CORRECT, AND
11 DELETE PERSONAL DATA AND THE RIGHT TO OPT OUT NOT ONLY OF THE
12 SALE OF PERSONAL DATA BUT ALSO OF THE COLLECTION AND USE OF
13 PERSONAL DATA;

14 (B) IMPOSES AN AFFIRMATIVE OBLIGATION UPON COMPANIES TO
15 SAFEGUARD PERSONAL DATA; TO PROVIDE CLEAR, UNDERSTANDABLE, AND
16 TRANSPARENT INFORMATION TO CONSUMERS ABOUT HOW THEIR PERSONAL
17 DATA ARE USED; AND TO STRENGTHEN COMPLIANCE AND ACCOUNTABILITY
18 BY REQUIRING DATA PROTECTION ASSESSMENTS IN THE COLLECTION AND
19 USE OF PERSONAL DATA; AND

20 (C) EMPOWERS THE ATTORNEY GENERAL AND DISTRICT
21 ATTORNEYS TO ACCESS AND EVALUATE A COMPANY'S DATA PROTECTION
22 ASSESSMENTS, TO IMPOSE PENALTIES WHERE VIOLATIONS OCCUR, AND TO
23 PREVENT FUTURE VIOLATIONS.

24 **6-1-1303. Definitions.** AS USED IN THIS PART 13, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "AFFILIATE" MEANS A LEGAL ENTITY THAT CONTROLS, IS
27 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER LEGAL

1 ENTITY. AS USED IN THIS SUBSECTION (1), "CONTROL" MEANS:

2 (a) OWNERSHIP OF, CONTROL OF, OR POWER TO VOTE TWENTY-FIVE
3 PERCENT OR MORE OF THE OUTSTANDING SHARES OF ANY CLASS OF
4 VOTING SECURITY OF THE ENTITY, DIRECTLY OR INDIRECTLY, OR ACTING
5 THROUGH ONE OR MORE OTHER PERSONS;

6 (b) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY
7 OF THE DIRECTORS, TRUSTEES, OR GENERAL PARTNERS OF THE ENTITY OR
8 OF INDIVIDUALS EXERCISING SIMILAR FUNCTIONS; OR

9 (c) THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A
10 CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF THE
11 ENTITY AS DETERMINED BY THE APPLICABLE PRUDENTIAL REGULATOR, AS
12 THAT TERM IS DEFINED IN 12 U.S.C. SEC. 5481 (24), IF ANY.

13 (2) "AUTHENTICATE" MEANS TO USE REASONABLE MEANS TO
14 DETERMINE THAT A REQUEST TO EXERCISE ANY OF THE RIGHTS IN SECTION
15 6-1-1306 (1) IS BEING MADE BY OR ON BEHALF OF THE CONSUMER WHO IS
16 ENTITLED TO EXERCISE THE RIGHTS.

17 (3) "BUSINESS ASSOCIATE" HAS THE MEANING ESTABLISHED IN 45
18 CFR 160.103.

19 (4) "CHILD" MEANS AN INDIVIDUAL UNDER THIRTEEN YEARS OF
20 AGE.

21 (5) "CONSENT" MEANS A CLEAR, AFFIRMATIVE ACT SIGNIFYING A
22 CONSUMER'S FREELY GIVEN, SPECIFIC, INFORMED, AND UNAMBIGUOUS
23 AGREEMENT, SUCH AS BY A WRITTEN STATEMENT, INCLUDING BY
24 ELECTRONIC MEANS, OR OTHER CLEAR, AFFIRMATIVE ACTION BY WHICH
25 THE CONSUMER SIGNIFIES AGREEMENT TO THE PROCESSING OF PERSONAL
26 DATA RELATING TO THE CONSUMER FOR A NARROWLY DEFINED
27 PARTICULAR PURPOSE. THE FOLLOWING DOES NOT CONSTITUTE CONSENT:

1 (a) ACCEPTANCE OF A GENERAL OR BROAD TERMS OF USE OR
2 SIMILAR DOCUMENT THAT CONTAINS DESCRIPTIONS OF PERSONAL DATA
3 PROCESSING ALONG WITH OTHER, UNRELATED INFORMATION;

4 (b) HOVERING OVER, MUTING, PAUSING, OR CLOSING A GIVEN PIECE
5 OF CONTENT; AND

6 (c) AGREEMENT OBTAINED THROUGH DARK PATTERNS.

7 (6) "CONSUMER":

8 (a) MEANS AN INDIVIDUAL WHO IS A COLORADO RESIDENT ACTING
9 ONLY IN AN INDIVIDUAL OR HOUSEHOLD CONTEXT; AND

10 (b) DOES NOT INCLUDE AN INDIVIDUAL ACTING IN A COMMERCIAL
11 OR EMPLOYMENT CONTEXT, AS A JOB APPLICANT, OR AS A BENEFICIARY OF
12 SOMEONE ACTING IN AN EMPLOYMENT CONTEXT.

13 (7) "CONTROLLER" MEANS A PERSON THAT, ALONE OR JOINTLY
14 WITH OTHERS, DETERMINES THE PURPOSES FOR AND MEANS OF PROCESSING
15 PERSONAL DATA.

16 (8) "COVERED ENTITY" HAS THE MEANING ESTABLISHED IN 45 CFR
17 160.103.

18 (9) "DARK PATTERN" MEANS A USER INTERFACE DESIGNED OR
19 MANIPULATED WITH THE SUBSTANTIAL EFFECT OF SUBVERTING OR
20 IMPAIRING USER AUTONOMY, DECISION MAKING, OR CHOICE.

21 (10) "DECISIONS THAT PRODUCE LEGAL OR SIMILARLY SIGNIFICANT
22 EFFECTS CONCERNING A CONSUMER" MEANS A DECISION THAT RESULTS IN
23 THE PROVISION OR DENIAL OF FINANCIAL OR LENDING SERVICES, HOUSING,
24 INSURANCE, EDUCATION ENROLLMENT OR OPPORTUNITY, CRIMINAL
25 JUSTICE, EMPLOYMENT OPPORTUNITIES, HEALTH-CARE SERVICES, OR
26 ACCESS TO ESSENTIAL GOODS OR SERVICES.

27 (11) "DE-IDENTIFIED DATA" MEANS DATA THAT CANNOT

1 REASONABLY BE USED TO INFER INFORMATION ABOUT, OR OTHERWISE BE
2 LINKED TO, AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL, OR A DEVICE
3 LINKED TO SUCH AN INDIVIDUAL, IF THE CONTROLLER THAT POSSESSES THE
4 DATA:

5 (a) TAKES REASONABLE MEASURES TO ENSURE THAT THE DATA
6 CANNOT BE ASSOCIATED WITH AN INDIVIDUAL;

7 (b) PUBLICLY COMMITS TO MAINTAIN AND USE THE DATA ONLY IN
8 A DE-IDENTIFIED FASHION AND NOT ATTEMPT TO RE-IDENTIFY THE DATA;

9 AND

10 (c) CONTRACTUALLY OBLIGATES ANY RECIPIENTS OF THE
11 INFORMATION TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION

12 (11).

13 (12) "HEALTH-CARE FACILITY" MEANS ANY ENTITY THAT IS
14 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW
15 TO ADMINISTER MEDICAL TREATMENT IN THIS STATE.

16 (13) "HEALTH-CARE INFORMATION" MEANS INDIVIDUALLY
17 IDENTIFIABLE INFORMATION RELATING TO THE PAST, PRESENT, OR FUTURE
18 HEALTH STATUS OF AN INDIVIDUAL.

19 (14) "HEALTH-CARE PROVIDER" MEANS A PERSON LICENSED,
20 CERTIFIED, OR REGISTERED IN THIS STATE TO PRACTICE MEDICINE,
21 PHARMACY, CHIROPRACTIC, NURSING, PHYSICAL THERAPY, PODIATRY,
22 DENTISTRY, OPTOMETRY, OCCUPATIONAL THERAPY, OR OTHER HEALING
23 ARTS UNDER TITLE 12.

24 (15) "HIPAA" MEANS THE FEDERAL "HEALTH INSURANCE
25 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", AS AMENDED, 42
26 U.S.C. SECS. 1320d TO 1320d-9.

27 (16) "IDENTIFIED OR IDENTIFIABLE INDIVIDUAL" MEANS AN

1 INDIVIDUAL WHO CAN BE READILY IDENTIFIED, DIRECTLY OR INDIRECTLY,
2 IN PARTICULAR BY REFERENCE TO AN IDENTIFIER SUCH AS A NAME, AN
3 IDENTIFICATION NUMBER, SPECIFIC GEOLOCATION DATA, OR AN ONLINE
4 IDENTIFIER.

5 (17) "PERSONAL DATA":

6 (a) MEANS INFORMATION THAT IS LINKED OR REASONABLY
7 LINKABLE TO AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL; AND

8 (b) DOES NOT INCLUDE DE-IDENTIFIED DATA OR PUBLICLY
9 AVAILABLE INFORMATION. AS USED IN THIS SUBSECTION (17)(b),
10 "PUBLICLY AVAILABLE INFORMATION" MEANS INFORMATION THAT IS
11 LAWFULLY MADE AVAILABLE FROM FEDERAL, STATE, OR LOCAL
12 GOVERNMENT RECORDS AND INFORMATION THAT A CONTROLLER HAS A
13 REASONABLE BASIS TO BELIEVE THE CONSUMER HAS LAWFULLY MADE
14 AVAILABLE TO THE GENERAL PUBLIC.

15 (18) "PROCESS" OR "PROCESSING" MEANS THE COLLECTION, USE,
16 SALE, STORAGE, DISCLOSURE, ANALYSIS, DELETION, OR MODIFICATION OF
17 PERSONAL DATA AND INCLUDES THE ACTIONS OF A CONTROLLER
18 DIRECTING A PROCESSOR TO PROCESS PERSONAL DATA.

19 (19) "PROCESSOR" MEANS A PERSON THAT PROCESSES PERSONAL
20 DATA ON BEHALF OF A CONTROLLER.

21 (20) "PROFILING" MEANS ANY FORM OF AUTOMATED PROCESSING
22 OF PERSONAL DATA TO EVALUATE, ANALYZE, OR PREDICT PERSONAL
23 ASPECTS CONCERNING AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL'S
24 ECONOMIC SITUATION, HEALTH, PERSONAL PREFERENCES, INTERESTS,
25 RELIABILITY, BEHAVIOR, LOCATION, OR MOVEMENTS.

26 (21) "PROTECTED HEALTH INFORMATION" HAS THE MEANING
27 ESTABLISHED IN 45 CFR 160.103.

1 (22) (a) "SALE", "SELL", OR "SOLD" MEANS THE EXCHANGE OF
2 PERSONAL DATA FOR MONETARY OR OTHER VALUABLE CONSIDERATION BY
3 A CONTROLLER TO A THIRD PARTY.

4 (b) "SALE", "SELL", OR "SOLD" DOES NOT INCLUDE THE
5 FOLLOWING:

6 (I) THE DISCLOSURE OF PERSONAL DATA TO A PROCESSOR THAT
7 PROCESSES THE PERSONAL DATA ON BEHALF OF A CONTROLLER;

8 (II) THE DISCLOSURE OF PERSONAL DATA TO A THIRD PARTY FOR
9 PURPOSES OF PROVIDING A PRODUCT OR SERVICE REQUESTED BY THE
10 CONSUMER;

11 (III) THE DISCLOSURE OR TRANSFER OF PERSONAL DATA TO AN
12 AFFILIATE OF THE CONTROLLER;

13 (IV) THE DISCLOSURE OR TRANSFER TO A THIRD PARTY OF
14 PERSONAL DATA AS AN ASSET THAT IS PART OF A PROPOSED OR ACTUAL
15 MERGER, ACQUISITION, BANKRUPTCY, OR OTHER TRANSACTION IN WHICH
16 THE THIRD PARTY ASSUMES CONTROL OF ALL OR PART OF THE
17 CONTROLLER'S ASSETS; OR

18 (V) THE DISCLOSURE OF PERSONAL DATA:

19 (A) THAT A CONSUMER DIRECTS THE CONTROLLER TO DISCLOSE OR
20 INTENTIONALLY DISCLOSES BY USING THE CONTROLLER TO INTERACT WITH
21 A THIRD PARTY; OR

22 (B) INTENTIONALLY MADE AVAILABLE BY A CONSUMER TO THE
23 GENERAL PUBLIC VIA A CHANNEL OF MASS MEDIA.

24 (23) "SENSITIVE DATA" MEANS:

25 (a) PERSONAL DATA REVEALING RACIAL OR ETHNIC ORIGIN,
26 RELIGIOUS BELIEFS, A MENTAL OR PHYSICAL HEALTH CONDITION OR
27 DIAGNOSIS, SEX LIFE OR SEXUAL ORIENTATION, OR CITIZENSHIP OR

1 CITIZENSHIP STATUS;

2 (b) GENETIC OR BIOMETRIC DATA THAT MAY BE PROCESSED FOR
3 THE PURPOSE OF UNIQUELY IDENTIFYING AN INDIVIDUAL; OR

4 (c) PERSONAL DATA FROM A KNOWN CHILD.

5 (24) "TARGETED ADVERTISING":

6 (a) MEANS DISPLAYING TO A CONSUMER AN ADVERTISEMENT THAT
7 IS SELECTED BASED ON PERSONAL DATA OBTAINED OR INFERRED OVER
8 TIME FROM THE CONSUMER'S ACTIVITIES ACROSS NONAFFILIATED
9 WEBSITES, APPLICATIONS, OR ONLINE SERVICES TO PREDICT CONSUMER
10 PREFERENCES OR INTERESTS; AND

11 (b) DOES NOT INCLUDE:

12 (I) ADVERTISING TO A CONSUMER IN RESPONSE TO THE
13 CONSUMER'S REQUEST FOR INFORMATION OR FEEDBACK;

14 (II) ADVERTISEMENTS BASED ON ACTIVITIES WITHIN A
15 CONTROLLER'S OWN WEBSITES OR ONLINE APPLICATIONS;

16 (III) ADVERTISEMENTS BASED ON THE CONTEXT OF A CONSUMER'S
17 CURRENT SEARCH QUERY, VISIT TO A WEBSITE, OR ONLINE APPLICATION;

18 OR

19 (IV) PROCESSING PERSONAL DATA SOLELY FOR MEASURING OR
20 REPORTING ADVERTISING PERFORMANCE, REACH, OR FREQUENCY.

21 (25) "THIRD PARTY" MEANS A PERSON, PUBLIC AUTHORITY,
22 AGENCY, OR BODY OTHER THAN A CONSUMER, CONTROLLER, PROCESSOR,
23 OR AFFILIATE OF THE PROCESSOR OR THE CONTROLLER.

24 **6-1-1304. Applicability of part. (1)** EXCEPT AS SPECIFIED IN
25 SUBSECTION (2) OF THIS SECTION, THIS PART 13 APPLIES TO A CONTROLLER
26 THAT:

27 (a) CONDUCTS BUSINESS IN COLORADO OR PRODUCES OR DELIVERS

1 COMMERCIAL PRODUCTS OR SERVICES THAT ARE INTENTIONALLY
2 TARGETED TO RESIDENTS OF COLORADO; AND

3 (b) SATISFIES ONE OR BOTH OF THE FOLLOWING THRESHOLDS:

4 (I) CONTROLS OR PROCESSES THE PERSONAL DATA OF ONE
5 HUNDRED THOUSAND CONSUMERS OR MORE DURING A CALENDAR YEAR;

6 OR

7 (II) DERIVES REVENUE OR RECEIVES A DISCOUNT ON THE PRICE OF
8 GOODS OR SERVICES FROM THE SALE OF PERSONAL DATA AND PROCESSES
9 OR CONTROLS THE PERSONAL DATA OF TWENTY-FIVE THOUSAND
10 CONSUMERS OR MORE.

11 (2) THIS PART 13 DOES NOT APPLY TO:

12 (a) PROTECTED HEALTH INFORMATION THAT IS COLLECTED,
13 STORED, AND PROCESSED BY A COVERED ENTITY OR ITS BUSINESS
14 ASSOCIATES;

15 (b) HEALTH-CARE INFORMATION THAT IS GOVERNED BY PART 8 OF
16 ARTICLE 1 OF TITLE 25 SOLELY FOR THE PURPOSE OF ACCESS TO MEDICAL
17 RECORDS;

18 (c) PATIENT IDENTIFYING INFORMATION, AS DEFINED IN 42 CFR
19 2.11, THAT ARE GOVERNED BY AND COLLECTED AND PROCESSED
20 PURSUANT TO 42 CFR 2, ESTABLISHED PURSUANT TO 42 U.S.C. SEC.
21 290dd-2;

22 (d) IDENTIFIABLE PRIVATE INFORMATION, AS DEFINED IN 45 CFR
23 46.102, FOR PURPOSES OF THE FEDERAL POLICY FOR THE PROTECTION OF
24 HUMAN SUBJECTS PURSUANT TO 45 CFR 46; IDENTIFIABLE PRIVATE
25 INFORMATION THAT IS COLLECTED AS PART OF HUMAN SUBJECTS
26 RESEARCH PURSUANT TO THE ICH E6 GOOD CLINICAL PRACTICE
27 GUIDELINE ISSUED BY THE INTERNATIONAL COUNCIL FOR

1 HARMONISATION OF TECHNICAL REQUIREMENTS FOR PHARMACEUTICALS
2 FOR HUMAN USE OR THE PROTECTION OF HUMAN SUBJECTS UNDER 21 CFR
3 50 AND 56; OR PERSONAL DATA USED OR SHARED IN RESEARCH
4 CONDUCTED IN ACCORDANCE WITH ONE OR MORE OF THE CATEGORIES SET
5 FORTH IN THIS SUBSECTION (2)(d);

6 (e) INFORMATION AND DOCUMENTS CREATED BY A COVERED
7 ENTITY FOR PURPOSES OF COMPLYING WITH HIPAA AND ITS
8 IMPLEMENTING REGULATIONS;

9 (f) PATIENT SAFETY WORK PRODUCT, AS DEFINED IN 42 CFR 3.20,
10 THAT IS CREATED FOR PURPOSES OF PATIENT SAFETY IMPROVEMENT
11 PURSUANT TO 42 CFR 3, ESTABLISHED PURSUANT TO 42 U.S.C. SECS.
12 299b-21 TO 299b-26;

13 (g) INFORMATION THAT IS:

14 (I) DE-IDENTIFIED IN ACCORDANCE WITH THE REQUIREMENTS FOR
15 DE-IDENTIFICATION SET FORTH IN 45 CFR 164; AND

16 (II) DERIVED FROM ANY OF THE HEALTH-CARE-RELATED
17 INFORMATION DESCRIBED IN THIS SECTION.

18 (h) INFORMATION MAINTAINED IN THE SAME MANNER AS
19 INFORMATION UNDER SUBSECTIONS (2)(a) TO (2)(g) OF THIS SECTION BY:

20 (I) A COVERED ENTITY OR BUSINESS ASSOCIATE;

21 (II) A HEALTH-CARE FACILITY OR HEALTH-CARE PROVIDER; OR

22 (III) A PROGRAM OF A QUALIFIED SERVICE ORGANIZATION AS
23 DEFINED IN 42 CFR 2.11;

24 (i) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(i)(II) OF THIS
25 SECTION, AN ACTIVITY INVOLVING THE COLLECTION, MAINTENANCE,
26 DISCLOSURE, SALE, COMMUNICATION, OR USE OF ANY PERSONAL DATA
27 BEARING ON A CONSUMER'S CREDITWORTHINESS, CREDIT STANDING,

1 CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL
2 CHARACTERISTICS, OR MODE OF LIVING BY:

3 (A) A CONSUMER REPORTING AGENCY AS DEFINED IN 15 U.S.C.
4 SEC. 1681a (f);

5 (B) A FURNISHER OF INFORMATION AS SET FORTH IN 15 U.S.C. SEC.
6 1681s-2 THAT PROVIDES INFORMATION FOR USE IN A CONSUMER REPORT,
7 AS DEFINED IN 15 U.S.C. SEC. 1681a (d); OR

8 (C) A USER OF A CONSUMER REPORT AS SET FORTH IN 15 U.S.C.
9 SEC. 1681b.

10 (II) THIS SUBSECTION (2)(i) APPLIES ONLY TO THE EXTENT THAT
11 THE ACTIVITY IS REGULATED BY THE FEDERAL "FAIR CREDIT REPORTING
12 ACT", 15 U.S.C. SEC. 1681 ET SEQ., AS AMENDED, AND THE PERSONAL
13 DATA ARE NOT COLLECTED, MAINTAINED, DISCLOSED, SOLD,
14 COMMUNICATED, OR USED EXCEPT AS AUTHORIZED BY THE FEDERAL "FAIR
15 CREDIT REPORTING ACT", AS AMENDED.

16 (j) PERSONAL DATA:

17 (I) COLLECTED AND MAINTAINED FOR PURPOSES OF ARTICLE 22 OF
18 TITLE 10;

19 (II) COLLECTED, PROCESSED, SOLD, OR DISCLOSED PURSUANT TO
20 THE FEDERAL "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET
21 SEQ., AS AMENDED, AND IMPLEMENTING REGULATIONS, IF THE
22 COLLECTION, PROCESSING, SALE, OR DISCLOSURE IS IN COMPLIANCE WITH
23 THAT LAW;

24 (III) COLLECTED, PROCESSED, SOLD, OR DISCLOSED PURSUANT TO
25 THE FEDERAL "DRIVER'S PRIVACY PROTECTION ACT OF 1994", 18 U.S.C.
26 SEC. 2721 ET SEQ., AS AMENDED, IF THE COLLECTION, PROCESSING, SALE,
27 OR DISCLOSURE IS REGULATED BY THAT LAW;

1 (IV) REGULATED BY THE FEDERAL "CHILDREN'S ONLINE PRIVACY
2 PROTECTION ACT OF 1998", 15 U.S.C. SECS. 6501 TO 6506, AS AMENDED,
3 IF COLLECTED, PROCESSED, AND MAINTAINED IN COMPLIANCE WITH THAT
4 LAW; OR

5 (V) REGULATED BY THE FEDERAL "FAMILY EDUCATIONAL RIGHTS
6 AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g ET SEQ., AS AMENDED,
7 AND ITS IMPLEMENTING REGULATIONS;

8 (k) DATA MAINTAINED FOR EMPLOYMENT RECORDS PURPOSES;

9 (l) AN AIR CARRIER AS DEFINED IN AND REGULATED UNDER 49
10 U.S.C. SEC. 40101 ET SEQ., AS AMENDED, AND 49 U.S.C. SEC. 41713, AS
11 AMENDED;

12 (m) A NATIONAL SECURITIES ASSOCIATION REGISTERED PURSUANT
13 TO THE FEDERAL "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC.
14 78o-3, AS AMENDED, OR IMPLEMENTING REGULATIONS;

15 (n) CUSTOMER DATA MAINTAINED BY A PUBLIC UTILITY AS
16 DEFINED IN SECTION 40-1-103 (1)(a)(I) OR AN AUTHORITY AS DEFINED IN
17 SECTION 43-4-503 (1), IF THE DATA ARE NOT COLLECTED, MAINTAINED,
18 DISCLOSED, SOLD, COMMUNICATED, OR USED EXCEPT AS AUTHORIZED BY
19 STATE AND FEDERAL LAW;

20 (o) INFORMATION USED AND DISCLOSED IN COMPLIANCE WITH 45
21 CFR 164.512; OR

22 (p) A FINANCIAL INSTITUTION OR AN AFFILIATE OF A FINANCIAL
23 INSTITUTION AS DEFINED BY AND THAT IS SUBJECT TO THE FEDERAL
24 "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET SEQ., AS
25 AMENDED, AND IMPLEMENTING REGULATIONS, INCLUDING REGULATION
26 P, 12 CFR 1016.

27 (3) THE OBLIGATIONS IMPOSED ON CONTROLLERS OR PROCESSORS

- 1 UNDER THIS PART 13 DO NOT:
- 2 (a) RESTRICT A CONTROLLER'S OR PROCESSOR'S ABILITY TO:
- 3 (I) COMPLY WITH FEDERAL, STATE, OR LOCAL LAWS, RULES, OR
- 4 REGULATIONS;
- 5 (II) COMPLY WITH A CIVIL, CRIMINAL, OR REGULATORY INQUIRY,
- 6 INVESTIGATION, SUBPOENA, OR SUMMONS BY FEDERAL, STATE, LOCAL, OR
- 7 OTHER GOVERNMENTAL AUTHORITIES;
- 8 (III) COOPERATE WITH LAW ENFORCEMENT AGENCIES CONCERNING
- 9 CONDUCT OR ACTIVITY THAT THE CONTROLLER OR PROCESSOR
- 10 REASONABLY AND IN GOOD FAITH BELIEVES MAY VIOLATE FEDERAL,
- 11 STATE, OR LOCAL LAW;
- 12 (IV) INVESTIGATE, EXERCISE, PREPARE FOR, OR DEFEND LEGAL
- 13 CLAIMS;
- 14 (V) CONDUCT INTERNAL RESEARCH TO IMPROVE, REPAIR, OR
- 15 DEVELOP PRODUCTS, SERVICES, OR TECHNOLOGY;
- 16 (VI) IDENTIFY AND REPAIR TECHNICAL ERRORS THAT IMPAIR
- 17 EXISTING OR INTENDED FUNCTIONALITY;
- 18 (VII) PERFORM INTERNAL OPERATIONS THAT ARE REASONABLY
- 19 ALIGNED WITH THE EXPECTATIONS OF THE CONSUMER BASED ON THE
- 20 CONSUMER'S EXISTING RELATIONSHIP WITH THE CONTROLLER;
- 21 (VIII) PROVIDE A PRODUCT OR SERVICE SPECIFICALLY REQUESTED
- 22 BY A CONSUMER, PERFORM A CONTRACT TO WHICH THE CONSUMER IS A
- 23 PARTY, OR TAKE STEPS AT THE REQUEST OF THE CONSUMER PRIOR TO
- 24 ENTERING INTO A CONTRACT;
- 25 (IX) PROTECT THE VITAL INTERESTS OF THE CONSUMER OR OF
- 26 ANOTHER INDIVIDUAL;
- 27 (X) PREVENT, DETECT, PROTECT AGAINST, OR RESPOND TO

1 SECURITY INCIDENTS, IDENTITY THEFT, FRAUD, HARASSMENT, OR
2 MALICIOUS, DECEPTIVE, OR ILLEGAL ACTIVITY; PRESERVE THE INTEGRITY
3 OR SECURITY OF SYSTEMS; OR INVESTIGATE, REPORT, OR PROSECUTE
4 THOSE RESPONSIBLE FOR ANY SUCH ACTION;

5 (XI) PROCESS PERSONAL DATA FOR REASONS OF PUBLIC INTEREST
6 IN THE AREA OF PUBLIC HEALTH, BUT SOLELY TO THE EXTENT THAT THE
7 PROCESSING:

8 (A) IS SUBJECT TO SUITABLE AND SPECIFIC MEASURES TO
9 SAFEGUARD THE RIGHTS OF THE CONSUMER WHOSE PERSONAL DATA ARE
10 PROCESSED; AND

11 (B) IS UNDER THE RESPONSIBILITY OF A PROFESSIONAL SUBJECT TO
12 CONFIDENTIALITY OBLIGATIONS UNDER FEDERAL, STATE, OR LOCAL LAW;
13 OR

14 (XII) ASSIST ANOTHER PERSON WITH ANY OF THE ACTIVITIES SET
15 FORTH IN THIS SUBSECTION (3);

16 (b) APPLY WHERE COMPLIANCE BY THE CONTROLLER OR
17 PROCESSOR WITH THIS PART 13 WOULD VIOLATE AN EVIDENTIARY
18 PRIVILEGE UNDER COLORADO LAW;

19 (c) PREVENT A CONTROLLER OR PROCESSOR FROM PROVIDING
20 PERSONAL DATA CONCERNING A CONSUMER TO A PERSON COVERED BY AN
21 EVIDENTIARY PRIVILEGE UNDER COLORADO LAW AS PART OF A PRIVILEGED
22 COMMUNICATION;

23 (d) APPLY TO INFORMATION MADE AVAILABLE BY A THIRD PARTY
24 THAT THE CONTROLLER HAS A REASONABLE BASIS TO BELIEVE IS
25 PROTECTED SPEECH PURSUANT TO APPLICABLE LAW; AND

26 (e) APPLY TO THE PROCESSING OF PERSONAL DATA BY AN
27 INDIVIDUAL IN THE COURSE OF A PURELY PERSONAL OR HOUSEHOLD

1 ACTIVITY.

2 (4) PERSONAL DATA THAT ARE PROCESSED BY A CONTROLLER
3 PURSUANT TO AN EXCEPTION PROVIDED BY THIS SECTION:

4 (a) SHALL NOT BE PROCESSED FOR ANY PURPOSE OTHER THAN A
5 PURPOSE EXPRESSLY LISTED IN THIS SECTION OR AS OTHERWISE
6 AUTHORIZED BY THIS PART 13; AND

7 (b) SHALL BE PROCESSED SOLELY TO THE EXTENT THAT THE
8 PROCESSING IS NECESSARY, REASONABLE, AND PROPORTIONATE TO THE
9 SPECIFIC PURPOSE OR PURPOSES LISTED IN THIS SECTION OR AS OTHERWISE
10 AUTHORIZED BY THIS PART 13.

11 (5) IF A CONTROLLER PROCESSES PERSONAL DATA PURSUANT TO
12 AN EXEMPTION IN THIS SECTION, THE CONTROLLER BEARS THE BURDEN OF
13 DEMONSTRATING THAT THE PROCESSING QUALIFIES FOR THE EXEMPTION
14 AND COMPLIES WITH THE REQUIREMENTS IN SUBSECTION (4) OF THIS
15 SECTION.

16 **6-1-1305. Responsibility according to role. (1) CONTROLLERS**
17 **AND PROCESSORS SHALL MEET THEIR RESPECTIVE OBLIGATIONS**
18 **ESTABLISHED UNDER THIS PART 13.**

19 (2) PROCESSORS SHALL ADHERE TO THE INSTRUCTIONS OF THE
20 CONTROLLER AND ASSIST THE CONTROLLER TO MEET ITS OBLIGATIONS
21 UNDER THIS PART 13. TAKING INTO ACCOUNT THE NATURE OF PROCESSING
22 AND THE INFORMATION AVAILABLE TO THE PROCESSOR, THE PROCESSOR
23 SHALL ASSIST THE CONTROLLER BY:

24 (a) TAKING APPROPRIATE TECHNICAL AND ORGANIZATIONAL
25 MEASURES, INsofar AS THIS IS POSSIBLE, FOR THE FULFILLMENT OF THE
26 CONTROLLER'S OBLIGATION TO RESPOND TO CONSUMER REQUESTS TO
27 EXERCISE THEIR RIGHTS PURSUANT TO SECTION 6-1-1306;

1 (b) HELPING TO MEET THE CONTROLLER'S OBLIGATIONS IN
2 RELATION TO THE SECURITY OF PROCESSING THE PERSONAL DATA AND IN
3 RELATION TO THE NOTIFICATION OF A BREACH OF THE SECURITY OF THE
4 SYSTEM PURSUANT TO SECTION 6-1-716; AND

5 (c) PROVIDING INFORMATION TO THE CONTROLLER NECESSARY TO
6 ENABLE THE CONTROLLER TO CONDUCT AND DOCUMENT ANY DATA
7 PROTECTION ASSESSMENTS REQUIRED BY SECTION 6-1-1309. THE
8 CONTROLLER AND PROCESSOR ARE EACH RESPONSIBLE FOR ONLY THE
9 MEASURES ALLOCATED TO THEM.

10 (3) NOTWITHSTANDING THE INSTRUCTIONS OF THE CONTROLLER,
11 A PROCESSOR SHALL:

12 (a) ENSURE THAT EACH PERSON PROCESSING THE PERSONAL DATA
13 IS SUBJECT TO A DUTY OF CONFIDENTIALITY WITH RESPECT TO THE DATA;
14 AND

15 (b) ENGAGE A SUBCONTRACTOR ONLY AFTER PROVIDING THE
16 CONTROLLER WITH AN OPPORTUNITY TO OBJECT AND PURSUANT TO A
17 WRITTEN CONTRACT IN ACCORDANCE WITH SUBSECTION (5) OF THIS
18 SECTION THAT REQUIRES THE SUBCONTRACTOR TO MEET THE OBLIGATIONS
19 OF THE PROCESSOR WITH RESPECT TO THE PERSONAL DATA.

20 (4) TAKING INTO ACCOUNT THE CONTEXT OF PROCESSING, THE
21 CONTROLLER AND THE PROCESSOR SHALL IMPLEMENT APPROPRIATE
22 TECHNICAL AND ORGANIZATIONAL MEASURES TO ENSURE A LEVEL OF
23 SECURITY APPROPRIATE TO THE RISK AND ESTABLISH A CLEAR
24 ALLOCATION OF THE RESPONSIBILITIES BETWEEN THEM TO IMPLEMENT THE
25 MEASURES.

26 (5) PROCESSING BY A PROCESSOR MUST BE GOVERNED BY A
27 CONTRACT BETWEEN THE CONTROLLER AND THE PROCESSOR THAT IS

1 BINDING ON BOTH PARTIES AND THAT SETS OUT:
2 (a) THE PROCESSING INSTRUCTIONS TO WHICH THE PROCESSOR IS
3 BOUND, INCLUDING THE NATURE AND PURPOSE OF THE PROCESSING;
4 (b) THE TYPE OF PERSONAL DATA SUBJECT TO THE PROCESSING,
5 AND THE DURATION OF THE PROCESSING;
6 (c) THE REQUIREMENTS IMPOSED BY THIS SUBSECTION (5) AND
7 SUBSECTIONS (3) AND (4) OF THIS SECTION; AND
8 (d) THE FOLLOWING REQUIREMENTS:
9 (I) AT THE CHOICE OF THE CONTROLLER, THE PROCESSOR SHALL
10 DELETE OR RETURN ALL PERSONAL DATA TO THE CONTROLLER AS
11 REQUESTED AT THE END OF THE PROVISION OF SERVICES, UNLESS
12 RETENTION OF THE PERSONAL DATA IS REQUIRED BY LAW;
13 (II) (A) THE PROCESSOR SHALL MAKE AVAILABLE TO THE
14 CONTROLLER ALL INFORMATION NECESSARY TO DEMONSTRATE
15 COMPLIANCE WITH THE OBLIGATIONS IN THIS PART 13; AND
16 (B) THE PROCESSOR SHALL ALLOW FOR, AND CONTRIBUTE TO,
17 REASONABLE AUDITS AND INSPECTIONS BY THE CONTROLLER OR THE
18 CONTROLLER'S DESIGNATED AUDITOR. ALTERNATIVELY, THE PROCESSOR
19 MAY, WITH THE CONTROLLER'S CONSENT, ARRANGE FOR A QUALIFIED AND
20 INDEPENDENT AUDITOR TO CONDUCT, AT LEAST ANNUALLY AND AT THE
21 PROCESSOR'S EXPENSE, AN AUDIT OF THE PROCESSOR'S POLICIES AND
22 TECHNICAL AND ORGANIZATIONAL MEASURES IN SUPPORT OF THE
23 OBLIGATIONS UNDER THIS PART 13 USING AN APPROPRIATE AND ACCEPTED
24 CONTROL STANDARD OR FRAMEWORK AND AUDIT PROCEDURE FOR THE
25 AUDITS AS APPLICABLE. THE PROCESSOR SHALL PROVIDE A REPORT OF THE
26 AUDIT TO THE CONTROLLER UPON REQUEST.
27 (6) IN NO EVENT MAY A CONTRACT RELIEVE A CONTROLLER OR A

1 PROCESSOR FROM THE LIABILITIES IMPOSED ON THEM BY VIRTUE OF ITS
2 ROLE IN THE PROCESSING RELATIONSHIP AS DEFINED BY THIS PART 13.

3 (7) DETERMINING WHETHER A PERSON IS ACTING AS A
4 CONTROLLER OR PROCESSOR WITH RESPECT TO A SPECIFIC PROCESSING OF
5 DATA IS A FACT-BASED DETERMINATION THAT DEPENDS UPON THE
6 CONTEXT IN WHICH PERSONAL DATA ARE TO BE PROCESSED. A PERSON
7 THAT IS NOT LIMITED IN ITS PROCESSING OF PERSONAL DATA PURSUANT TO
8 A CONTROLLER'S INSTRUCTIONS, OR THAT FAILS TO ADHERE TO THE
9 INSTRUCTIONS, IS A CONTROLLER AND NOT A PROCESSOR WITH RESPECT TO
10 A SPECIFIC PROCESSING OF DATA. A PROCESSOR THAT CONTINUES TO
11 ADHERE TO A CONTROLLER'S INSTRUCTIONS WITH RESPECT TO A SPECIFIC
12 PROCESSING OF PERSONAL DATA REMAINS A PROCESSOR. IF A PROCESSOR
13 BEGINS, ALONE OR JOINTLY WITH OTHERS, DETERMINING THE PURPOSES
14 AND MEANS OF THE PROCESSING OF PERSONAL DATA, IT IS A CONTROLLER
15 WITH RESPECT TO THE PROCESSING.

16 (8) (a) A CONTROLLER OR PROCESSOR THAT DISCLOSES PERSONAL
17 DATA TO ANOTHER CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THIS
18 PART 13 DOES NOT VIOLATE THIS PART 13 IF THE RECIPIENT PROCESSES THE
19 PERSONAL DATA IN VIOLATION OF THIS PART 13, AND, AT THE TIME OF
20 DISCLOSING THE PERSONAL DATA, THE DISCLOSING CONTROLLER OR
21 PROCESSOR DID NOT HAVE ACTUAL KNOWLEDGE THAT THE RECIPIENT
22 INTENDED TO COMMIT A VIOLATION.

23 (b) A CONTROLLER OR PROCESSOR RECEIVING PERSONAL DATA
24 FROM A CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THIS PART 13
25 AS SPECIFIED IN SUBSECTION (8)(a) OF THIS SECTION DOES NOT VIOLATE
26 THIS PART 13 IF THE CONTROLLER OR PROCESSOR FROM WHICH IT RECEIVES
27 THE PERSONAL DATA FAILS TO COMPLY WITH APPLICABLE OBLIGATIONS

1 UNDER THIS PART 13.

2 **6-1-1306. Consumer personal data rights - repeal.**

3 (1) CONSUMERS MAY EXERCISE THE FOLLOWING RIGHTS BY SUBMITTING
4 A REQUEST USING THE METHODS SPECIFIED BY THE CONTROLLER IN THE
5 PRIVACY NOTICE REQUIRED UNDER SECTION 6-1-1308 (1)(a). THE METHOD
6 MUST TAKE INTO ACCOUNT THE WAYS IN WHICH CONSUMERS NORMALLY
7 INTERACT WITH THE CONTROLLER, THE NEED FOR SECURE AND RELIABLE
8 COMMUNICATION RELATING TO THE REQUEST, AND THE ABILITY OF THE
9 CONTROLLER TO AUTHENTICATE THE IDENTITY OF THE CONSUMER MAKING
10 THE REQUEST. CONTROLLERS SHALL NOT REQUIRE A CONSUMER TO
11 CREATE A NEW ACCOUNT IN ORDER TO EXERCISE CONSUMER RIGHTS
12 PURSUANT TO THIS SECTION BUT MAY REQUIRE A CONSUMER TO USE AN
13 EXISTING ACCOUNT. A CONSUMER MAY SUBMIT A REQUEST AT ANY TIME
14 TO A CONTROLLER SPECIFYING WHICH OF THE FOLLOWING RIGHTS THE
15 CONSUMER WISHES TO EXERCISE:

16 **(a) Right to opt out. (I) A CONSUMER HAS THE RIGHT TO OPT OUT**
17 **OF THE PROCESSING OF PERSONAL DATA CONCERNING THE CONSUMER FOR**
18 **PURPOSES OF:**

19 **(A) TARGETED ADVERTISING;**

20 **(B) THE SALE OF PERSONAL DATA; OR**

21 **(C) PROFILING IN FURTHERANCE OF DECISIONS THAT PRODUCE**
22 **LEGAL OR SIMILARLY SIGNIFICANT EFFECTS CONCERNING A CONSUMER.**

23 **(II) A CONSUMER MAY AUTHORIZE ANOTHER PERSON, ACTING ON**
24 **THE CONSUMER'S BEHALF, TO OPT OUT OF THE PROCESSING OF THE**
25 **CONSUMER'S PERSONAL DATA, INCLUDING THROUGH A TECHNOLOGY**
26 **INDICATING THE CONSUMER'S INTENT TO OPT OUT SUCH AS A WEB LINK**
27 **INDICATING A PREFERENCE OR BROWSER SETTING, BROWSER EXTENSION,**

1 OR GLOBAL DEVICE SETTING. A CONTROLLER SHALL COMPLY WITH AN
2 OPT-OUT REQUEST RECEIVED FROM A PERSON AUTHORIZED BY THE
3 CONSUMER TO ACT ON THE CONSUMER'S BEHALF IF THE CONTROLLER IS
4 ABLE TO AUTHENTICATE, WITH COMMERCIALY REASONABLE EFFORT, THE
5 IDENTITY OF THE CONSUMER AND THE AUTHORIZED AGENT'S AUTHORITY
6 TO ACT ON THE CONSUMER'S BEHALF.

7 (III) A CONTROLLER THAT PROCESSES PERSONAL DATA FOR
8 PURPOSES OF TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA
9 SHALL PROVIDE A CLEAR AND CONSPICUOUS METHOD TO EXERCISE THE
10 RIGHT TO OPT OUT OF THE PROCESSING OF PERSONAL DATA CONCERNING
11 THE CONSUMER PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION. THE
12 CONTROLLER SHALL PROVIDE THE OPT-OUT METHOD CLEARLY AND
13 CONSPICUOUSLY IN ANY PRIVACY NOTICE REQUIRED TO BE PROVIDED TO
14 CONSUMERS UNDER THIS PART 13, AND IN A CLEAR, CONSPICUOUS, AND
15 READILY ACCESSIBLE LOCATION OUTSIDE THE PRIVACY NOTICE.

16 (IV) (A) A CONTROLLER THAT PROCESSES PERSONAL DATA FOR
17 PURPOSES OF TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA
18 MAY ALLOW CONSUMERS TO EXERCISE THE RIGHT TO OPT OUT OF THE
19 PROCESSING OF PERSONAL DATA CONCERNING THE CONSUMER FOR
20 PURPOSES OF TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA
21 PURSUANT TO SUBSECTIONS (1)(a)(I)(A) AND (1)(a)(I)(B) OF THIS SECTION
22 BY CONTROLLERS THROUGH A USER-SELECTED UNIVERSAL OPT-OUT
23 MECHANISM THAT MEETS THE TECHNICAL SPECIFICATIONS ESTABLISHED
24 BY THE ATTORNEY GENERAL PURSUANT TO SECTION 6-1-1313. THIS
25 SUBSECTION (1)(a)(IV)(A) IS REPEALED, EFFECTIVE JANUARY 1, 2024.

26 (B) EFFECTIVE JANUARY 1, 2024, A CONTROLLER THAT PROCESSES
27 PERSONAL DATA FOR PURPOSES OF TARGETED ADVERTISING OR THE SALE

1 OF PERSONAL DATA SHALL ALLOW CONSUMERS TO EXERCISE THE RIGHT TO
2 OPT OUT OF THE PROCESSING OF PERSONAL DATA CONCERNING THE
3 CONSUMER FOR PURPOSES OF TARGETED ADVERTISING OR THE SALE OF
4 PERSONAL DATA PURSUANT TO SUBSECTIONS (1)(a)(I)(A) AND (1)(a)(I)(B)
5 OF THIS SECTION BY CONTROLLERS THROUGH A USER-SELECTED
6 UNIVERSAL OPT-OUT MECHANISM THAT MEETS THE TECHNICAL
7 SPECIFICATIONS ESTABLISHED BY THE ATTORNEY GENERAL PURSUANT TO
8 SECTION 6-1-1313.

9 (C) NOTWITHSTANDING A CONSUMER'S DECISION TO EXERCISE THE
10 RIGHT TO OPT OUT OF THE PROCESSING OF PERSONAL DATA THROUGH A
11 UNIVERSAL OPT-OUT MECHANISM PURSUANT TO SUBSECTION (1)(a)(IV)(B)
12 OF THIS SECTION, A CONTROLLER MAY ENABLE THE CONSUMER TO
13 CONSENT, THROUGH A WEB PAGE, APPLICATION, OR A SIMILAR METHOD, TO
14 THE PROCESSING OF THE CONSUMER'S PERSONAL DATA FOR PURPOSES OF
15 TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA, AND THE
16 CONSENT TAKES PRECEDENCE OVER ANY CHOICE REFLECTED THROUGH
17 THE UNIVERSAL OPT-OUT MECHANISM. BEFORE OBTAINING A CONSUMER'S
18 CONSENT TO PROCESS PERSONAL DATA FOR PURPOSES OF TARGETED
19 ADVERTISING OR THE SALE OF PERSONAL DATA PURSUANT TO THIS
20 SUBSECTION (1)(a)(IV)(C), A CONTROLLER SHALL PROVIDE THE
21 CONSUMER WITH A CLEAR AND CONSPICUOUS NOTICE INFORMING THE
22 CONSUMER ABOUT THE CHOICES AVAILABLE UNDER THIS SECTION,
23 DESCRIBING THE CATEGORIES OF PERSONAL DATA TO BE PROCESSED AND
24 THE PURPOSES FOR WHICH THEY WILL BE PROCESSED, AND EXPLAINING
25 HOW AND WHERE THE CONSUMER MAY WITHDRAW CONSENT. THE WEB
26 PAGE, APPLICATION, OR OTHER MEANS BY WHICH A CONTROLLER OBTAINS
27 A CONSUMER'S CONSENT TO PROCESS PERSONAL DATA FOR PURPOSES OF

1 TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA MUST ALSO
2 ALLOW THE CONSUMER TO REVOKE THE CONSENT AS EASILY AS IT IS
3 AFFIRMATIVELY PROVIDED.

4 (b) **Right of access.** A CONSUMER HAS THE RIGHT TO CONFIRM
5 WHETHER A CONTROLLER IS PROCESSING PERSONAL DATA CONCERNING
6 THE CONSUMER AND TO ACCESS THE CONSUMER'S PERSONAL DATA.

7 (c) **Right to correction.** A CONSUMER HAS THE RIGHT TO CORRECT
8 INACCURACIES IN THE CONSUMER'S PERSONAL DATA, TAKING INTO
9 ACCOUNT THE NATURE OF THE PERSONAL DATA AND THE PURPOSES OF THE
10 PROCESSING OF THE CONSUMER'S PERSONAL DATA.

11 (d) **Right to deletion.** A CONSUMER HAS THE RIGHT TO DELETE
12 PERSONAL DATA CONCERNING THE CONSUMER.

13 (e) **Right to data portability.** WHEN EXERCISING THE RIGHT TO
14 ACCESS PERSONAL DATA PURSUANT TO SUBSECTION (1)(b) OF THIS
15 SECTION, A CONSUMER HAS THE RIGHT TO OBTAIN THE PERSONAL DATA IN
16 A PORTABLE AND, TO THE EXTENT TECHNICALLY FEASIBLE, READILY
17 USABLE FORMAT THAT ALLOWS THE CONSUMER TO TRANSMIT THE DATA
18 TO ANOTHER ENTITY WITHOUT HINDRANCE. A CONSUMER MAY EXERCISE
19 THIS RIGHT NO MORE THAN TWO TIMES PER CALENDAR YEAR. NOTHING IN
20 THIS SUBSECTION (1)(e) REQUIRES A CONTROLLER TO PROVIDE THE DATA
21 TO THE CONSUMER IN A MANNER THAT WOULD DISCLOSE THE
22 CONTROLLER'S TRADE SECRETS.

23 (2) **Responding to consumer requests.** (a) A CONTROLLER
24 SHALL INFORM A CONSUMER OF ANY ACTION TAKEN ON A REQUEST UNDER
25 SUBSECTION (1) OF THIS SECTION WITHOUT UNDUE DELAY AND, IN ANY
26 EVENT, WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE REQUEST. THE
27 CONTROLLER MAY EXTEND THE FORTY-FIVE-DAY PERIOD BY FORTY-FIVE

1 ADDITIONAL DAYS WHERE REASONABLY NECESSARY, TAKING INTO
2 ACCOUNT THE COMPLEXITY AND NUMBER OF THE REQUESTS. THE
3 CONTROLLER SHALL INFORM THE CONSUMER OF AN EXTENSION WITHIN
4 FORTY-FIVE DAYS AFTER RECEIPT OF THE REQUEST, TOGETHER WITH THE
5 REASONS FOR THE DELAY.

6 (b) IF A CONTROLLER DOES NOT TAKE ACTION ON THE REQUEST OF
7 A CONSUMER, THE CONTROLLER SHALL INFORM THE CONSUMER, WITHOUT
8 UNDUE DELAY AND, AT THE LATEST, WITHIN FORTY-FIVE DAYS AFTER
9 RECEIPT OF THE REQUEST, OF THE REASONS FOR NOT TAKING ACTION AND
10 INSTRUCTIONS FOR HOW TO APPEAL THE DECISION WITH THE CONTROLLER
11 AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

12 (c) UPON REQUEST, A CONTROLLER SHALL PROVIDE TO THE
13 CONSUMER THE INFORMATION SPECIFIED IN THIS SECTION FREE OF
14 CHARGE; EXCEPT THAT, FOR A SECOND OR SUBSEQUENT REQUEST WITHIN
15 A TWELVE-MONTH PERIOD, THE CONTROLLER MAY CHARGE AN AMOUNT
16 CALCULATED IN THE MANNER SPECIFIED IN SECTION 24-72-205 (5)(a).

17 (d) A CONTROLLER IS NOT REQUIRED TO COMPLY WITH A REQUEST
18 TO EXERCISE ANY OF THE RIGHTS UNDER SUBSECTION (1) OF THIS SECTION
19 IF THE CONTROLLER IS UNABLE TO AUTHENTICATE THE REQUEST USING
20 COMMERCIALY REASONABLE EFFORTS, IN WHICH CASE THE CONTROLLER
21 MAY REQUEST THE PROVISION OF ADDITIONAL INFORMATION REASONABLY
22 NECESSARY TO AUTHENTICATE THE REQUEST.

23 (3) (a) A CONTROLLER SHALL ESTABLISH AN INTERNAL PROCESS
24 WHEREBY CONSUMERS MAY APPEAL A REFUSAL TO TAKE ACTION ON A
25 REQUEST TO EXERCISE ANY OF THE RIGHTS UNDER SUBSECTION (1) OF THIS
26 SECTION WITHIN A REASONABLE PERIOD AFTER THE CONSUMER'S RECEIPT
27 OF THE NOTICE SENT BY THE CONTROLLER UNDER SUBSECTION (2)(b) OF

1 THIS SECTION. THE APPEAL PROCESS MUST BE CONSPICUOUSLY AVAILABLE
2 AND AS EASY TO USE AS THE PROCESS FOR SUBMITTING A REQUEST UNDER
3 THIS SECTION.

4 (b) WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF AN APPEAL, A
5 CONTROLLER SHALL INFORM THE CONSUMER OF ANY ACTION TAKEN OR
6 NOT TAKEN IN RESPONSE TO THE APPEAL, ALONG WITH A WRITTEN
7 EXPLANATION OF THE REASONS IN SUPPORT OF THE RESPONSE. THE
8 CONTROLLER MAY EXTEND THE FORTY-FIVE-DAY PERIOD BY SIXTY
9 ADDITIONAL DAYS WHERE REASONABLY NECESSARY, TAKING INTO
10 ACCOUNT THE COMPLEXITY AND NUMBER OF REQUESTS SERVING AS THE
11 BASIS FOR THE APPEAL. THE CONTROLLER SHALL INFORM THE CONSUMER
12 OF AN EXTENSION WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE
13 APPEAL, TOGETHER WITH THE REASONS FOR THE DELAY.

14 (c) THE CONTROLLER SHALL INFORM THE CONSUMER OF THE
15 CONSUMER'S ABILITY TO CONTACT THE ATTORNEY GENERAL IF THE
16 CONSUMER HAS CONCERNS ABOUT THE RESULT OF THE APPEAL.

17 **6-1-1307. Processing de-identified data. (1) THIS PART 13 DOES**
18 **NOT REQUIRE A CONTROLLER OR PROCESSOR TO DO ANY OF THE**
19 **FOLLOWING SOLELY FOR PURPOSES OF COMPLYING WITH THIS PART 13:**

20 **(a) REIDENTIFY DE-IDENTIFIED DATA;**

21 **(b) COMPLY WITH AN AUTHENTICATED CONSUMER REQUEST TO**
22 **ACCESS, CORRECT, DELETE, OR PROVIDE PERSONAL DATA IN A PORTABLE**
23 **FORMAT PURSUANT TO SECTION 6-1-1306 (1), IF ALL OF THE FOLLOWING**
24 **ARE TRUE:**

25 **(I) (A) THE CONTROLLER IS NOT REASONABLY CAPABLE OF**
26 **ASSOCIATING THE REQUEST WITH THE PERSONAL DATA; OR**

27 **(B) IT WOULD BE UNREASONABLY BURDENSOME FOR THE**

1 CONTROLLER TO ASSOCIATE THE REQUEST WITH THE PERSONAL DATA;

2 (II) THE CONTROLLER DOES NOT USE THE PERSONAL DATA TO
3 RECOGNIZE OR RESPOND TO THE SPECIFIC CONSUMER WHO IS THE SUBJECT
4 OF THE PERSONAL DATA OR ASSOCIATE THE PERSONAL DATA WITH OTHER
5 PERSONAL DATA ABOUT THE SAME SPECIFIC CONSUMER; AND

6 (III) THE CONTROLLER DOES NOT SELL THE PERSONAL DATA TO
7 ANY THIRD PARTY OR OTHERWISE VOLUNTARILY DISCLOSE THE PERSONAL
8 DATA TO ANY THIRD PARTY, EXCEPT AS OTHERWISE AUTHORIZED BY THE
9 CONSUMER; OR

10 (c) MAINTAIN DATA IN IDENTIFIABLE FORM OR COLLECT, OBTAIN,
11 RETAIN, OR ACCESS ANY DATA OR TECHNOLOGY IN ORDER TO ENABLE THE
12 CONTROLLER TO ASSOCIATE AN AUTHENTICATED CONSUMER REQUEST
13 WITH PERSONAL DATA.

14 (2) A CONTROLLER THAT USES DE-IDENTIFIED DATA SHALL
15 EXERCISE REASONABLE OVERSIGHT TO MONITOR COMPLIANCE WITH ANY
16 CONTRACTUAL COMMITMENTS TO WHICH THE DE-IDENTIFIED DATA ARE
17 SUBJECT AND SHALL TAKE APPROPRIATE STEPS TO ADDRESS ANY
18 BREACHES OF CONTRACTUAL COMMITMENTS.

19 **6-1-1308. Duties of controllers. (1) Duty of transparency.**

20 (a) A CONTROLLER SHALL PROVIDE CONSUMERS WITH A REASONABLY
21 ACCESSIBLE, CLEAR, AND MEANINGFUL PRIVACY NOTICE THAT INCLUDES:

22 (I) THE CATEGORIES OF PERSONAL DATA COLLECTED OR
23 PROCESSED BY THE CONTROLLER OR A PROCESSOR;

24 (II) THE PURPOSES FOR WHICH THE CATEGORIES OF PERSONAL
25 DATA ARE PROCESSED;

26 (III) HOW AND WHERE CONSUMERS MAY EXERCISE THE RIGHTS
27 PURSUANT TO SECTION 6-1-1306, INCLUDING THE CONTROLLER'S CONTACT

1 INFORMATION AND HOW A CONSUMER MAY APPEAL A CONTROLLER'S
2 ACTION WITH REGARD TO THE CONSUMER'S REQUEST;

3 (IV) THE CATEGORIES OF PERSONAL DATA THAT THE CONTROLLER
4 SHARES WITH THIRD PARTIES, IF ANY; AND

5 (V) THE CATEGORIES OF THIRD PARTIES, IF ANY, WITH WHOM THE
6 CONTROLLER SHARES PERSONAL DATA.

7 (b) IF A CONTROLLER SELLS PERSONAL DATA TO THIRD PARTIES OR
8 PROCESSES PERSONAL DATA FOR TARGETED ADVERTISING, THE
9 CONTROLLER SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE THE SALE
10 OR PROCESSING, AS WELL AS THE MANNER IN WHICH A CONSUMER MAY
11 EXERCISE THE RIGHT TO OPT OUT OF THE SALE OR PROCESSING.

12 (c) A CONTROLLER SHALL NOT:

13 (I) REQUIRE A CONSUMER TO CREATE A NEW ACCOUNT IN ORDER
14 TO EXERCISE A RIGHT; OR

15 (II) BASED SOLELY ON THE EXERCISE OF A RIGHT AND UNRELATED
16 TO FEASIBILITY OR THE VALUE OF A SERVICE, INCREASE THE COST OF, OR
17 DECREASE THE AVAILABILITY OF, THE PRODUCT OR SERVICE.

18 (d) NOTHING IN THIS PART 13 SHALL BE CONSTRUED TO REQUIRE
19 A CONTROLLER TO PROVIDE A PRODUCT OR SERVICE THAT REQUIRES THE
20 PERSONAL DATA OF A CONSUMER THAT THE CONTROLLER DOES NOT
21 COLLECT OR MAINTAIN OR TO PROHIBIT A CONTROLLER FROM OFFERING A
22 DIFFERENT PRICE, RATE, LEVEL, QUALITY, OR SELECTION OF GOODS OR
23 SERVICES TO A CONSUMER, INCLUDING OFFERING GOODS OR SERVICES FOR
24 NO FEE, IF THE CONSUMER HAS EXERCISED THE RIGHT TO OPT OUT
25 PURSUANT TO THIS PART 13 OR THE OFFER IS RELATED TO A CONSUMER'S
26 VOLUNTARY PARTICIPATION IN A BONA FIDE LOYALTY, REWARDS,
27 PREMIUM FEATURES, DISCOUNT, OR CLUB CARD PROGRAM.

1 **(2) Duty of purpose specification.** A CONTROLLER SHALL SPECIFY
2 THE EXPRESS PURPOSES FOR WHICH PERSONAL DATA ARE COLLECTED AND
3 PROCESSED.

4 **(3) Duty of data minimization.** A CONTROLLER'S COLLECTION OF
5 PERSONAL DATA MUST BE ADEQUATE, RELEVANT, AND LIMITED TO WHAT
6 IS NECESSARY IN RELATION TO THE SPECIFIED AND EXPRESS PURPOSES FOR
7 WHICH THE DATA ARE PROCESSED.

8 **(4) Duty to avoid secondary use.** A CONTROLLER SHALL NOT
9 PROCESS PERSONAL DATA FOR PURPOSES THAT ARE NOT NECESSARY TO OR
10 COMPATIBLE WITH THE SPECIFIED AND EXPRESS PURPOSES FOR WHICH THE
11 PERSONAL DATA ARE PROCESSED, UNLESS THE CONTROLLER FIRST OBTAINS
12 THE CONSUMER'S CONSENT.

13 **(5) Duty of care.** A CONTROLLER SHALL TAKE REASONABLE
14 MEASURES TO SECURE PERSONAL DATA DURING BOTH STORAGE AND USE
15 FROM UNAUTHORIZED ACQUISITION.

16 **(6) Duty to avoid unlawful discrimination.** A CONTROLLER
17 SHALL NOT PROCESS PERSONAL DATA IN VIOLATION OF STATE OR FEDERAL
18 LAWS THAT PROHIBIT UNLAWFUL DISCRIMINATION AGAINST CONSUMERS.

19 **(7) Duty regarding sensitive data.** A CONTROLLER SHALL NOT
20 PROCESS A CONSUMER'S SENSITIVE DATA WITHOUT FIRST OBTAINING THE
21 CONSUMER'S CONSENT OR, IN THE CASE OF THE PROCESSING OF PERSONAL
22 DATA CONCERNING A KNOWN CHILD, WITHOUT FIRST OBTAINING CONSENT
23 FROM THE CHILD'S PARENT OR LAWFUL GUARDIAN.

24 **6-1-1309. Data protection assessments - attorney general**
25 **access and evaluation - definition.** (1) A CONTROLLER SHALL NOT
26 CONDUCT PROCESSING THAT PRESENTS A HEIGHTENED RISK OF HARM TO
27 A CONSUMER WITHOUT CONDUCTING AND DOCUMENTING A DATA

1 PROTECTION ASSESSMENT OF EACH OF ITS PROCESSING ACTIVITIES THAT
2 INVOLVE PERSONAL DATA ACQUIRED ON OR AFTER THE EFFECTIVE DATE
3 OF THIS SECTION THAT PRESENT A HEIGHTENED RISK OF HARM TO A
4 CONSUMER.

5 (2) FOR PURPOSES OF THIS SECTION, "PROCESSING THAT PRESENTS
6 A HEIGHTENED RISK OF HARM TO A CONSUMER" INCLUDES THE
7 FOLLOWING:

8 (a) PROCESSING PERSONAL DATA FOR PURPOSES OF TARGETED
9 ADVERTISING OR FOR PROFILING IF THE PROFILING PRESENTS A
10 REASONABLY FORESEEABLE RISK OF:

11 (I) UNFAIR OR DECEPTIVE TREATMENT OF, OR UNLAWFUL
12 DISPARATE IMPACT ON, CONSUMERS;

13 (II) FINANCIAL OR PHYSICAL INJURY TO CONSUMERS;

14 (III) A PHYSICAL OR OTHER INTRUSION UPON THE SOLITUDE OR
15 SECLUSION, OR THE PRIVATE AFFAIRS OR CONCERNS, OF CONSUMERS IF THE
16 INTRUSION WOULD BE OFFENSIVE TO A REASONABLE PERSON; OR

17 (IV) OTHER SUBSTANTIAL INJURY TO CONSUMERS;

18 (b) SELLING PERSONAL DATA; AND

19 (c) PROCESSING SENSITIVE DATA.

20 (3) DATA PROTECTION ASSESSMENTS MUST IDENTIFY AND WEIGH
21 THE BENEFITS THAT MAY FLOW, DIRECTLY AND INDIRECTLY, FROM THE
22 PROCESSING TO THE CONTROLLER, THE CONSUMER, OTHER
23 STAKEHOLDERS, AND THE PUBLIC AGAINST THE POTENTIAL RISKS TO THE
24 RIGHTS OF THE CONSUMER ASSOCIATED WITH THE PROCESSING, AS
25 MITIGATED BY SAFEGUARDS THAT THE CONTROLLER CAN EMPLOY TO
26 REDUCE THE RISKS. THE CONTROLLER SHALL FACTOR INTO THIS
27 ASSESSMENT THE USE OF DE-IDENTIFIED DATA AND THE REASONABLE

1 EXPECTATIONS OF CONSUMERS, AS WELL AS THE CONTEXT OF THE
2 PROCESSING AND THE RELATIONSHIP BETWEEN THE CONTROLLER AND THE
3 CONSUMER WHOSE PERSONAL DATA WILL BE PROCESSED.

4 (4) A CONTROLLER SHALL MAKE THE DATA PROTECTION
5 ASSESSMENT AVAILABLE TO THE ATTORNEY GENERAL UPON REQUEST. THE
6 ATTORNEY GENERAL MAY EVALUATE THE DATA PROTECTION ASSESSMENT
7 FOR COMPLIANCE WITH THE DUTIES CONTAINED IN SECTION 6-1-1308 AND
8 WITH OTHER LAWS, INCLUDING THIS ARTICLE 1. DATA PROTECTION
9 ASSESSMENTS ARE CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION
10 AND COPYING UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF
11 ARTICLE 72 OF TITLE 24. THE DISCLOSURE OF A DATA PROTECTION
12 ASSESSMENT PURSUANT TO A REQUEST FROM THE ATTORNEY GENERAL
13 UNDER THIS SUBSECTION (4) DOES NOT CONSTITUTE A WAIVER OF ANY
14 ATTORNEY-CLIENT PRIVILEGE OR WORK-PRODUCT PROTECTION THAT
15 MIGHT OTHERWISE EXIST WITH RESPECT TO THE ASSESSMENT AND ANY
16 INFORMATION CONTAINED IN THE ASSESSMENT.

17 (5) A SINGLE DATA PROTECTION ASSESSMENT MAY ADDRESS A
18 COMPARABLE SET OF PROCESSING OPERATIONS THAT INCLUDE SIMILAR
19 ACTIVITIES.

20 (6) DATA PROTECTION ASSESSMENT REQUIREMENTS APPLY TO
21 PROCESSING ACTIVITIES CREATED OR GENERATED AFTER JULY 1, 2023,
22 AND ARE NOT RETROACTIVE.

23 **6-1-1310. Liability. (1) NOTWITHSTANDING ANY PROVISION IN**
24 **PART 1 OF THIS ARTICLE 1, THIS PART 13 DOES NOT AUTHORIZE A PRIVATE**
25 **RIGHT OF ACTION FOR A VIOLATION OF THIS PART 13 OR ANY OTHER**
26 **PROVISION OF LAW. THIS SUBSECTION (1) NEITHER RELIEVES ANY PARTY**
27 **FROM ANY DUTIES OR OBLIGATIONS IMPOSED, NOR ALTERS ANY**

1 INDEPENDENT RIGHTS THAT CONSUMERS HAVE, UNDER OTHER LAWS,
2 INCLUDING THIS ARTICLE 1, THE STATE CONSTITUTION, OR THE UNITED
3 STATES CONSTITUTION.

4 (2) WHERE MORE THAN ONE CONTROLLER OR PROCESSOR, OR BOTH
5 A CONTROLLER AND A PROCESSOR, INVOLVED IN THE SAME PROCESSING
6 VIOLATES THIS PART 13, THE LIABILITY SHALL BE ALLOCATED AMONG THE
7 PARTIES ACCORDING TO PRINCIPLES OF COMPARATIVE FAULT.

8 **6-1-1311. Enforcement - penalties - repeal.**

9 (1)(a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 1, THE
10 ATTORNEY GENERAL AND DISTRICT ATTORNEYS HAVE EXCLUSIVE
11 AUTHORITY TO ENFORCE THIS PART 13 BY BRINGING AN ACTION IN THE
12 NAME OF THE STATE OR AS PARENS PATRIAE ON BEHALF OF PERSONS
13 RESIDING IN THE STATE TO ENFORCE THIS PART 13 AS PROVIDED IN THIS
14 ARTICLE 1, INCLUDING SEEKING AN INJUNCTION TO ENJOIN A VIOLATION OF
15 THIS PART 13.

16 (b) FOR PURPOSES ONLY OF ENFORCEMENT OF THIS PART 13 BY THE
17 ATTORNEY GENERAL OR A DISTRICT ATTORNEY, A VIOLATION OF THIS PART
18 13 IS A DECEPTIVE TRADE PRACTICE.

19 (c) PRIOR TO ANY ENFORCEMENT ACTION PURSUANT TO
20 SUBSECTION (1)(a) OF THIS SECTION, THE ATTORNEY GENERAL OR
21 DISTRICT ATTORNEY MUST ISSUE A NOTICE OF VIOLATION TO THE
22 CONTROLLER IF A CURE IS DEEMED POSSIBLE. IF THE CONTROLLER FAILS TO
23 CURE THE VIOLATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE
24 OF VIOLATION, AN ACTION MAY BE BROUGHT PURSUANT TO THIS SECTION.
25 THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JANUARY 1, 2025.

26 (2) THE STATE TREASURER SHALL CREDIT ALL RECEIPTS FROM THE
27 IMPOSITION OF CIVIL PENALTIES UNDER THIS PART 13 PURSUANT TO

1 SECTION 24-31-108.

2 **6-1-1312. Preemption - local governments.** THIS PART 13
3 SUPERSEDES AND PREEMPTS LAWS, ORDINANCES, RESOLUTIONS,
4 REGULATIONS, OR THE EQUIVALENT ADOPTED BY ANY STATUTORY OR
5 HOME RULE MUNICIPALITY, COUNTY, OR CITY AND COUNTY REGARDING
6 THE PROCESSING OF PERSONAL DATA BY CONTROLLERS OR PROCESSORS.

7 **6-1-1313. Rules - opt-out mechanism.** (1) THE ATTORNEY
8 GENERAL MAY PROMULGATE RULES FOR THE PURPOSE OF CARRYING OUT
9 THIS PART 13.

10 (2) BY DECEMBER 31, 2023, THE ATTORNEY GENERAL MAY ADOPT
11 RULES THAT DETAIL THE TECHNICAL SPECIFICATIONS FOR ONE OR MORE
12 UNIVERSAL OPT-OUT MECHANISMS THAT CLEARLY COMMUNICATE A
13 CONSUMER'S AFFIRMATIVE, FREELY GIVEN, AND UNAMBIGUOUS CHOICE TO
14 OPT OUT OF THE PROCESSING OF PERSONAL DATA FOR PURPOSES OF
15 TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA PURSUANT TO
16 SECTION 6-1-1306 (1)(a)(I)(A) OR (1)(a)(I)(B). THE ATTORNEY GENERAL
17 SHALL UPDATE THE RULES THAT DETAIL THE TECHNICAL SPECIFICATIONS
18 FOR THE MECHANISMS FROM TIME TO TIME TO REFLECT THE MEANS BY
19 WHICH CONSUMERS INTERACT WITH CONTROLLERS. THE RULES MUST:

20 (a) NOT PERMIT THE MANUFACTURER OF A PLATFORM, BROWSER,
21 DEVICE, OR ANY OTHER PRODUCT OFFERING A UNIVERSAL OPT-OUT
22 MECHANISM TO UNFAIRLY DISADVANTAGE ANOTHER CONTROLLER;

23 (b) REQUIRE CONTROLLERS TO INFORM CONSUMERS ABOUT THE
24 OPT-OUT CHOICES AVAILABLE UNDER SECTION 6-1-1306 (1)(a)(I);

25 (c) NOT ADOPT A MECHANISM THAT IS A DEFAULT SETTING, BUT
26 RATHER CLEARLY REPRESENTS THE CONSUMER'S AFFIRMATIVE, FREELY
27 GIVEN, AND UNAMBIGUOUS CHOICE TO OPT OUT OF THE PROCESSING OF

1 PERSONAL DATA PURSUANT TO SECTION 6-1-1306 (1)(a)(I)(A) OR
2 (1)(a)(I)(B);

3 (d) ADOPT A MECHANISM THAT IS CONSUMER-FRIENDLY, CLEARLY
4 DESCRIBED, AND EASY TO USE BY THE AVERAGE CONSUMER;

5 (e) ADOPT A MECHANISM THAT IS AS CONSISTENT AS POSSIBLE
6 WITH ANY OTHER SIMILAR MECHANISM REQUIRED BY LAW OR REGULATION
7 IN THE UNITED STATES; AND

8 (f) PERMIT THE CONTROLLER TO ACCURATELY AUTHENTICATE THE
9 CONSUMER AS A RESIDENT OF THIS STATE AND DETERMINE THAT THE
10 MECHANISM REPRESENTS A LEGITIMATE REQUEST TO OPT OUT OF THE
11 PROCESSING OF PERSONAL DATA FOR PURPOSES OF TARGETED
12 ADVERTISING OR THE SALE OF PERSONAL DATA PURSUANT TO SECTION
13 6-1-1306 (1)(a)(I)(A) OR (1)(a)(I)(B).

14 **SECTION 2.** In Colorado Revised Statutes, **amend** 6-1-104 as
15 follows:

16 **6-1-104. Cooperative reporting.** The district attorneys may
17 cooperate in a statewide reporting system by receiving, on forms provided
18 by the attorney general, complaints from persons concerning deceptive
19 trade practices listed in section 6-1-105 and OR part 7 OR 13 of this article
20 ARTICLE 1 and transmitting ~~such~~ THE complaints to the attorney general.

21 **SECTION 3.** In Colorado Revised Statutes, 6-1-105, **add**
22 (1)(nnn) as follows:

23 **6-1-105. Unfair or deceptive trade practices.** (1) A person
24 engages in a deceptive trade practice when, in the course of the person's
25 business, vocation, or occupation, the person:

26 (nnn) VIOLATES ANY PROVISION OF PART 13 OF THIS ARTICLE 1 AS
27 SPECIFIED IN SECTION 6-1-1311 (1)(b).

1 **SECTION 4. In Colorado Revised Statutes, 6-1-107, amend (1)**
2 introductory portion as follows:

3 **6-1-107. Powers of attorney general and district attorneys.**

4 (1) When the attorney general or a district attorney has reasonable cause
5 to believe that any person, whether in this state or elsewhere, has engaged
6 in or is engaging in any deceptive trade practice listed in section 6-1-105
7 or part 7 OR 13 of this ~~article~~ ARTICLE 1, the attorney general or district
8 attorney may:

9 **SECTION 5. In Colorado Revised Statutes, 6-1-108, amend (1)**
10 as follows:

11 **6-1-108. Subpoenas - hearings - rules.** (1) When the attorney
12 general or a district attorney has reasonable cause to believe that a person,
13 whether in this state or elsewhere, has engaged in or is engaging in a
14 deceptive trade practice listed in section 6-1-105 or part 7 OR 13 of this
15 article 1, the attorney general or a district attorney, in addition to other
16 powers conferred upon ~~him or her~~ THE ATTORNEY GENERAL OR A DISTRICT
17 ATTORNEY by this article 1, may issue subpoenas to require the attendance
18 of witnesses or the production of documents, administer oaths, conduct
19 hearings in aid of any investigation or inquiry, and prescribe such forms
20 and promulgate such rules as may be necessary to administer the
21 provisions of this article 1.

22 **SECTION 6. In Colorado Revised Statutes, 6-1-110, amend (1)**
23 and (2) as follows:

24 **6-1-110. Restraining orders - injunctions - assurances of**
25 **discontinuance.** (1) Whenever the attorney general or a district attorney
26 has cause to believe that a person has engaged in or is engaging in any
27 deceptive trade practice listed in section 6-1-105 or part 7 OR 13 of this

1 article ARTICLE 1, the attorney general or district attorney may apply for
2 and obtain, in an action in the appropriate district court of this state, a
3 temporary restraining order or injunction, or both, pursuant to the
4 Colorado rules of civil procedure, prohibiting ~~such~~ THE person from
5 continuing ~~such~~ THE practices, or engaging therein, or doing any act in
6 furtherance thereof. The court may make such orders or judgments as may
7 be necessary to prevent the use or employment by ~~such~~ THE person of any
8 such deceptive trade practice or ~~which~~ THAT may be necessary to
9 completely compensate or restore to the original position of any person
10 injured by means of any such practice or to prevent any unjust enrichment
11 by any person through the use or employment of any deceptive trade
12 practice.

13 (2) Where the attorney general or a district attorney has authority
14 to institute a civil action or other proceeding pursuant to the provisions of
15 this ~~article~~ ARTICLE 1, the attorney general or district attorney may accept,
16 in lieu thereof or as a part thereof, an assurance of discontinuance of any
17 deceptive trade practice listed in section 6-1-105 or part 7 OR 13 of this
18 article. ~~Such~~ ARTICLE 1. THE assurance may include a stipulation for the
19 voluntary payment by the alleged violator of the costs of investigation and
20 any action or proceeding by the attorney general or a district attorney and
21 any amount necessary to restore to any person any money or property that
22 may have been acquired by ~~such~~ THE alleged violator by means of any
23 such deceptive trade practice. Any such assurance of discontinuance
24 accepted by the attorney general or a district attorney and any such
25 stipulation filed with the court as a part of any such action or proceeding
26 ~~shall be~~ IS a matter of public record unless the attorney general or the
27 district attorney determines, at ~~his or her~~ THE discretion OF THE ATTORNEY

1 GENERAL OR DISTRICT ATTORNEY, that it will be confidential to the parties
2 to the action or proceeding and to the court and its employees. Upon the
3 filing of a civil action by the attorney general or a district attorney
4 alleging that a confidential assurance of discontinuance or stipulation
5 accepted pursuant to this subsection (2) has been violated, said THE
6 assurance of discontinuance or stipulation shall thereupon be deemed
7 BECOMES a public record and open to inspection by any person. Proof by
8 a preponderance of the evidence of a violation of any such assurance or
9 stipulation shall constitute CONSTITUTES prima facie evidence of a
10 deceptive trade practice for the purposes of any civil action or proceeding
11 brought thereafter by the attorney general or a district attorney, whether
12 a new action or a subsequent motion or petition in any pending action or
13 proceeding.

14 **SECTION 7. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect July 1, 2023; except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within the ninety-day period after final adjournment of the general
19 assembly, then the act, item, section, or part will not take effect unless
20 approved by the people at the general election to be held in November
21 2022 and, in such case, will take effect July 1, 2023, or on the date of the
22 official declaration of the vote thereon by the governor, whichever is
23 later.

24 (2) This act applies to conduct occurring on or after the applicable
25 effective date of this act.