

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0676.01 Richard Sweetman x4333

SENATE BILL 22-113

SENATE SPONSORSHIP

Hansen and Buckner, Bridges, Fenberg, Fields, Ginal, Jaquez Lewis, Lee, Pettersen, Priola, Rankin, Story, Winter

HOUSE SPONSORSHIP

Tipper and Bacon, Benavidez, Duran, Froelich, Gonzales-Gutierrez, Hooton, Jodeh, Lindsay, Neville, Ricks, Snyder, Titone, Woodrow

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

State, Civic, Military, & Veterans Affairs
Legislative Council
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE USE OF PERSONAL IDENTIFYING DATA, AND, IN**
102 **CONNECTION THEREWITH, CREATING A TASK FORCE FOR THE**
103 **CONSIDERATION OF FACIAL RECOGNITION SERVICES,**
104 **RESTRICTING THE USE OF FACIAL RECOGNITION SERVICES BY**
105 **LAW ENFORCEMENT AGENCIES, TEMPORARILY PROHIBITING**
106 **STATE AND LOCAL GOVERNMENT AGENCIES AND SCHOOLS FROM**
107 **EXECUTING NEW CONTRACTS FOR FACIAL RECOGNITION**
108 **SERVICES, AND MAKING AN APPROPRIATION.**

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

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.

HOUSE
3rd Reading Unamended
May 6, 2022

HOUSE
Amended 2nd Reading
May 3, 2022

SENATE
3rd Reading Unamended
March 8, 2022

SENATE
Amended 2nd Reading
March 4, 2022

<http://leg.colorado.gov>.)

Section 1 of the bill creates a task force for the consideration of artificial intelligence (task force) and requires the task force to:

- Study issues relating to the use of artificial intelligence; and
- Submit a report on or before October 1, 2023, and on or before each October 1 thereafter, to the joint technology committee.

Section 2 repeals the task force, effective September 1, 2032, subject to a sunset review by the department of regulatory agencies.

Section 3 adds new definitions of terms and renumbers existing definitions.

Section 4 requires a state or local government agency (agency) that uses or intends to develop, procure, or use a facial recognition service (FRS) to file with a reporting authority a notice of intent to develop, procure, or use the FRS and specify a purpose for which the technology is to be used. After filing the notice of intent, the agency must produce an accountability report that includes certain information and policies regarding the proposed use of the FRS. The bill establishes requirements for the adoption, implementation, and updating of accountability reports.

Section 4 also requires an agency using an FRS to subject to meaningful human review any decisions that result from such use and produce legal effects concerning individuals or similarly significant effects concerning individuals. An agency must test the FRS in operational conditions before deploying the FRS in a context in which it will be used to make such decisions.

An agency using an FRS must conduct periodic training of all individuals who operate the FRS or who process personal data obtained from the FRS. An agency must maintain records that are sufficient to facilitate public reporting and auditing of compliance with the agency's facial recognition policies.

Section 4 also prohibits a law enforcement agency (LEA) from:

- Using an FRS to engage in ongoing surveillance, conduct real-time or near real-time identification, or start persistent tracking unless the LEA obtains a warrant authorizing such use, exigent circumstances exist, or the LEA obtains a court order authorizing the use of the service for the sole purpose of locating or identifying a missing person or identifying a deceased person;
- Applying an FRS to any individual based on the individual's religious, political, or social views or activities or any other characteristic protected by law;
- Using an FRS to create a record depicting any individual's exercise of rights guaranteed by the first amendment of the United States constitution and by section 10 of article II of

- the Colorado constitution;
- Using the results of an FRS as the sole basis to establish probable cause in a criminal investigation;
- Using an FRS to identify an individual based on a sketch or other manually produced image; or
- Substantively manipulating an image for use in an FRS in a manner not consistent with the FRS provider's intended use and training.

An agency must disclose its use of an FRS on a criminal defendant to that defendant in a timely manner prior to trial. In January of each year:

- Any judge who has issued or extended a warrant for the use of an FRS during the preceding year, or who has denied approval of such a warrant during that year, must report certain information to the state court administrator; and
- Any agency that has applied for a warrant or an extension of a warrant for the use of an FRS to engage in any surveillance must provide to the agency's reporting authority a report summarizing nonidentifying demographic data of individuals named in warrant applications as subjects of surveillance.

Sections 5 and 6 prohibit the use of facial recognition services by any public school, charter school, or institute charter school until January 1, 2025.

Section 7 states that an individual may authorize an agent to access and process the individual's personal data or other information held by a controller and that is otherwise accessible to the individual, and such an authorization does not constitute cybercrime.

Sections 8 and 9 make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 2-3-1707** as
3 follows:

4 **2-3-1707. Task force for the consideration of facial recognition**
5 **services - creation - membership - duties - compensation - staff**
6 **support - repeal. (1) Creation - membership. (a) THERE IS CREATED**
7 **A TASK FORCE FOR THE CONSIDERATION OF FACIAL RECOGNITION**
8 **SERVICES. THE TASK FORCE CONSISTS OF THE FOLLOWING FIFTEEN**
9 **MEMBERS:**

1 (I) THE CHIEF INFORMATION OFFICER APPOINTED BY THE
2 GOVERNOR PURSUANT TO SECTION 24-37.5-103 (1) OR THE CHIEF
3 INFORMATION OFFICER'S DESIGNEE;

4 (II) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
5 DESIGNEE;

6 (III) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
7 CREATED IN SECTION 24-33.5-401 OR THE DIRECTOR'S DESIGNEE;

8 (IV) ONE MEMBER WHO REPRESENTS THE COLORADO DISTRICT
9 ATTORNEYS' COUNCIL;

10 (V) ONE MEMBER WHO REPRESENTS EITHER THE COUNTY SHERIFFS
11 OF COLORADO OR THE COLORADO ASSOCIATION OF CHIEFS OF POLICE, TO
12 BE APPOINTED BY THE PRESIDENT OF THE SENATE;

13 (VI) ONE MEMBER WHO IS A STATE REPRESENTATIVE, TO BE
14 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

15 (VII) ONE MEMBER WHO IS A STATE SENATOR, TO BE APPOINTED
16 BY THE PRESIDENT OF THE SENATE;

17 (VIII) ONE MEMBER WHO REPRESENTS LOCAL SCHOOL DISTRICT
18 BOARDS OF EDUCATION, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE
19 OF REPRESENTATIVES;

20 (IX) ONE MEMBER WHO IS AN INSTRUCTOR AT AN INSTITUTION OF
21 HIGHER EDUCATION AND HAS EXPERT KNOWLEDGE OF, AND EXPERIENCE
22 WITH, FACIAL RECOGNITION SERVICES TECHNOLOGY, TO BE APPOINTED BY
23 THE PRESIDENT OF THE SENATE;

24 (X) ONE MEMBER WHO IS A BUSINESS PROFESSIONAL WITH EXPERT
25 KNOWLEDGE OF, AND EXPERIENCE WITH, FACIAL RECOGNITION SERVICES
26 PRODUCTS, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
27 REPRESENTATIVES;

1 (XI) ONE MEMBER WHO IS AN ATTORNEY WITH EXPERT
2 KNOWLEDGE OF, AND EXPERIENCE WITH, FEDERAL AND STATE LAWS
3 CONCERNING FACIAL RECOGNITION SERVICES, TO BE APPOINTED BY THE
4 PRESIDENT OF THE SENATE;

5 (XII) ONE MEMBER WHO REPRESENTS THE COLORADO CRIMINAL
6 DEFENSE BAR;

7 (XIII) ONE MEMBER WHO REPRESENTS A CONSUMER PROTECTION
8 ASSOCIATION, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

9 (XIV) ONE MEMBER WHO REPRESENTS A STATEWIDE CIVIL
10 LIBERTIES ORGANIZATION, TO BE APPOINTED BY THE SPEAKER OF THE
11 HOUSE OF REPRESENTATIVES; AND

12 (XV) ONE MEMBER WHO REPRESENTS DISPROPORTIONATELY
13 IMPACTED COMMUNITIES, TO BE APPOINTED BY THE PRESIDENT OF THE
14 SENATE.

15 (b) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
16 PRESIDENT OF THE SENATE SHALL MAKE EACH OF THE INITIAL
17 APPOINTMENTS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION NOT
18 LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

19 (c) THE TERMS OF THE APPOINTED MEMBERS OF THE TASK FORCE
20 ARE AS FOLLOWS:

21 (I) THE STATE REPRESENTATIVE APPOINTED PURSUANT TO
22 SUBSECTION (1)(a)(VI) OF THIS SECTION MAY SERVE INDEFINITELY, AT THE
23 DISCRETION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, SO
24 LONG AS THE PERSON REMAINS A STATE REPRESENTATIVE;

25 (II) THE STATE SENATOR APPOINTED PURSUANT TO SUBSECTION
26 (1)(a)(VII) OF THIS SECTION MAY SERVE INDEFINITELY, AT THE
27 DISCRETION OF THE PRESIDENT OF THE SENATE, SO LONG AS THE PERSON

1 REMAINS A STATE SENATOR;

2 (III) OF THE TWO MEMBERS APPOINTED PURSUANT TO
3 SUBSECTIONS (1)(a)(VIII) AND (1)(a)(IX) OF THIS SECTION, THE INITIAL
4 TERM OF THE MEMBER APPOINTED PURSUANT TO SUBSECTION (1)(a)(VIII)
5 OF THIS SECTION IS TWO YEARS AND THE INITIAL TERM OF THE MEMBER
6 APPOINTED PURSUANT TO SUBSECTION (1)(a)(IX) OF THIS SECTION IS FOUR
7 YEARS, AND THEREAFTER THE TERMS OF EACH SUCH MEMBER IS FOUR
8 YEARS;

9 (IV) OF THE TWO MEMBERS APPOINTED PURSUANT TO
10 SUBSECTIONS (1)(a)(X) AND (1)(a)(XI) OF THIS SECTION, THE INITIAL
11 TERM OF THE MEMBER APPOINTED PURSUANT TO SUBSECTION (1)(a)(X) OF
12 THIS SECTION IS TWO YEARS AND THE INITIAL TERM OF THE MEMBER
13 APPOINTED PURSUANT TO SUBSECTION (1)(a)(XI) OF THIS SECTION IS FOUR
14 YEARS, AND THEREAFTER THE TERMS OF EACH SUCH MEMBER IS FOUR
15 YEARS; AND

16 (V) THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS
17 (1)(a)(XII) TO (1)(a)(XV) OF THIS SECTION SHALL SERVE TERMS OF FOUR
18 YEARS.

19 (d) ANY VACANCY THAT OCCURS AMONG THE APPOINTED
20 MEMBERS OF THE TASK FORCE SHALL BE FILLED BY THE APPROPRIATE
21 APPOINTING AUTHORITY AS SOON AS PRACTICABLE IN ACCORDANCE WITH
22 THE LIMITATIONS SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.

23 (e) IN MAKING APPOINTMENTS TO THE TASK FORCE, THE SPEAKER
24 OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE
25 SHALL ENSURE THAT THE MEMBERSHIP OF THE TASK FORCE:

26 (I) REFLECTS THE ETHNIC, CULTURAL, AND GENDER DIVERSITY OF
27 THE STATE;

1 (II) INCLUDES REPRESENTATION OF ALL AREAS OF THE STATE,
2 INCLUDING PERSONS WHO DO NOT RESIDE IN THE FRONT RANGE REGION OF
3 THE STATE; AND

4 (III) TO THE EXTENT PRACTICABLE, INCLUDES PERSONS WITH
5 DISABILITIES.

6 (f) NOT LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF
7 THIS SECTION, THE PRESIDENT OF THE SENATE SHALL APPOINT A MEMBER
8 OF THE TASK FORCE TO SERVE AS THE INITIAL CHAIR OF THE TASK FORCE.
9 THEREAFTER, THE CHAIR OF THE TASK FORCE SHALL BE APPOINTED
10 ANNUALLY ON OR BEFORE JULY 1, WITH THE SPEAKER OF THE HOUSE OF
11 REPRESENTATIVES APPOINTING THE CHAIR IN ODD YEARS AND THE
12 PRESIDENT OF THE SENATE APPOINTING THE CHAIR IN EVEN YEARS.

13 (2) **Issues for study.** THE TASK FORCE SHALL EXAMINE AND,
14 PURSUANT TO SUBSECTION (3)(e) OF THIS SECTION, REPORT TO THE
15 COMMITTEE CONCERNING THE EXTENT TO WHICH STATE AND LOCAL
16 GOVERNMENT AGENCIES ARE CURRENTLY USING FACIAL RECOGNITION
17 SERVICES AND PROVIDE RECOMMENDATIONS CONCERNING THE EXTENT TO
18 WHICH STATE AND LOCAL GOVERNMENT AGENCIES SHOULD BE PERMITTED
19 TO USE FACIAL RECOGNITION SERVICES, INCLUDING CONSIDERATION OF:

20 (a) REGULATION, APPROVAL, AND PROCUREMENT OF FACIAL
21 RECOGNITION SERVICES;

22 (b) ACCESS TO DATA COLLECTED BY FACIAL RECOGNITION
23 SERVICES;

24 (c) EDUCATION OF THE PUBLIC CONCERNING FACIAL RECOGNITION
25 SERVICES, INCLUDING IN PUBLIC SCHOOLS AND INSTITUTIONS OF HIGHER
26 EDUCATION;

27 (d) ETHICAL CONSIDERATIONS RELATING TO THE USE OF FACIAL

1 RECOGNITION SERVICES;

2 (e) TRANSPARENCY AND DISCLOSURE REQUIREMENTS CONCERNING
3 HOW STATE AND LOCAL GOVERNMENT AGENCIES USE FACIAL RECOGNITION
4 SERVICES;

5 (f) THE POTENTIAL ABUSES AND THREATS POSED TO CIVIL
6 LIBERTIES, FREEDOMS, PRIVACY, AND SECURITY BY THE USE OF FACIAL
7 RECOGNITION SERVICES;

8 (g) THE POTENTIAL IMPACT OF THE USE OF FACIAL RECOGNITION
9 SERVICES ON VULNERABLE COMMUNITIES; AND

10 (h) HOW TO FACILITATE AND ENCOURAGE THE CONTINUED
11 DEVELOPMENT OF FACIAL RECOGNITION SERVICES SO THAT INDIVIDUALS,
12 BUSINESSES, GOVERNMENTS, AND OTHER INSTITUTIONS CAN BENEFIT FROM
13 THEIR USE WHILE SAFEGUARDING AGAINST POTENTIAL ABUSES AND
14 THREATS.

15 (3) **Additional duties of the task force.** THE TASK FORCE SHALL:

16 (a) MEET ON OR BEFORE DECEMBER 1, 2022, AT A TIME AND PLACE
17 TO BE DETERMINED BY THE CHAIR OF THE TASK FORCE;

18 (b) MEET AT LEAST ONCE EVERY FOUR MONTHS, OR MORE OFTEN
19 AS DIRECTED BY THE CHAIR OF THE COMMITTEE;

20 (c) COMMUNICATE WITH AND OBTAIN INPUT FROM GROUPS
21 THROUGHOUT THE STATE AFFECTED BY THE ISSUES IDENTIFIED IN
22 SUBSECTION (2) OF THIS SECTION;

23 (d) CREATE SUBCOMMITTEES AS NEEDED TO CARRY OUT THE
24 DUTIES OF THE TASK FORCE. THE SUBCOMMITTEES MAY CONSIST, IN PART,
25 OF PERSONS WHO ARE NOT MEMBERS OF THE TASK FORCE. SUCH PERSONS
26 MAY VOTE ON ISSUES BEFORE THE SUBCOMMITTEE BUT ARE NOT ENTITLED
27 TO VOTE AT MEETINGS OF THE TASK FORCE.

1 (e) SUBMIT A REPORT TO THE COMMITTEE ON OR BEFORE OCTOBER
2 1, 2023, AND ON OR BEFORE EACH OCTOBER 1 THEREAFTER, THAT, AT A
3 MINIMUM:

4 (I) DESCRIBES ISSUES TO BE STUDIED IN UPCOMING TASK FORCE
5 MEETINGS AND A PRIORITIZATION OF THOSE ISSUES;

6 (II) DESCRIBES FINDINGS AND RECOMMENDATIONS REGARDING
7 ISSUES CONSIDERED BY THE TASK FORCE;

8 (III) DESCRIBES LEGISLATIVE PROPOSALS THAT IDENTIFY THE
9 POLICY ISSUES INVOLVED, THE AGENCIES RESPONSIBLE FOR THE
10 IMPLEMENTATION OF THE CHANGES, AND THE FUNDING SOURCES
11 REQUIRED FOR IMPLEMENTATION;

12 (IV) INCLUDES RECOMMENDATIONS CONCERNING:

13 (A) THE PROHIBITIONS AND RESTRICTIONS DESCRIBED IN SECTION
14 24-33.5-117; AND

15 (B) THE PROHIBITIONS AND EXCEPTIONS DESCRIBED IN SECTIONS
16 22-30.5-529, 22-32-150, AND 24-33.5-119; AND

17 (V) INCLUDES A RECOMMENDATION AS TO WHETHER THE SCOPE OF
18 THE ISSUES FOR STUDY BY THE TASK FORCE, AS DESCRIBED IN SUBSECTION
19 (2) OF THIS SECTION, SHOULD BE EXPANDED TO INCLUDE CONSIDERATION
20 OF ARTIFICIAL INTELLIGENCE OTHER THAN FACIAL RECOGNITION SERVICES,
21 OR EVEN ARTIFICIAL INTELLIGENCE ITSELF, AND, IF SO, WHETHER THE
22 MEMBERSHIP OF THE TASK FORCE SHOULD BE ADJUSTED ACCORDINGLY.

23 (4) **Compensation.** NONLEGISLATIVE MEMBERS OF THE TASK
24 FORCE AND NONLEGISLATIVE MEMBERS OF ANY SUBCOMMITTEES OF THE
25 TASK FORCE SERVE WITHOUT COMPENSATION. COMPENSATION OF
26 LEGISLATIVE MEMBERS IS PAID FROM APPROPRIATIONS TO THE GENERAL
27 ASSEMBLY.

1 (5) **Staff support.** THE DIRECTOR OF RESEARCH OF THE
2 LEGISLATIVE COUNCIL MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE
3 AS THE DIRECTOR OF RESEARCH DEEMS APPROPRIATE, SUBJECT TO
4 AVAILABLE APPROPRIATIONS. THE TASK FORCE MAY ALSO ACCEPT
5 DONATIONS OF IN-KIND SERVICES FOR STAFF SUPPORT FROM THE PRIVATE
6 SECTOR.

7 (6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1,
8 2027. PRIOR TO THE REPEAL, THE TASK FORCE IS SCHEDULED FOR REVIEW
9 IN ACCORDANCE WITH SECTION 2-3-1203.

10 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add**
11 (18.5)(a)(III) as follows:

12 **2-3-1203. Sunset review of advisory committees - legislative**
13 **declaration - definition - repeal.** (18.5) (a) The following statutory
14 authorizations for the designated advisory committees will repeal on
15 September 1, 2027:

16 (III) THE TASK FORCE FOR THE CONSIDERATION OF FACIAL
17 RECOGNITION SERVICES CREATED IN SECTION 2-3-1707.

18 **SECTION 3.** In Colorado Revised Statutes, **amend** 2-3-1701 as
19 follows:

20 **2-3-1701. Definitions.** As used in this part 17, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "ARTIFICIAL INTELLIGENCE" MEANS SYSTEMS THAT CAN:

23 (a) PERCEIVE AN ENVIRONMENT THROUGH DATA ACQUISITION,
24 PROCESS AND INTERPRET THE DERIVED INFORMATION, AND TAKE ACTIONS
25 OR IMITATE INTELLIGENT BEHAVIOR TO ACHIEVE A SPECIFIED GOAL; AND

26 (b) LEARN FROM PAST BEHAVIOR AND RESULTS AND ADAPT THEIR
27 BEHAVIOR ACCORDINGLY.

1 ~~(1)~~(2) "Committee" means the joint technology committee created
2 in section 2-3-1702.

3 ~~(1.3)~~ (3) "Cybersecurity" means a broad range of technologies,
4 processes, and practices designed to protect networks, computers,
5 programs, and data from attack, damage, or unauthorized access.

6 ~~(1.7)~~ (4) "Data privacy" means the collection and dissemination
7 of data AND technology and the public expectation of privacy. "Data
8 privacy" also includes the way personally identifiable information or
9 other sensitive information is collected, stored, used, and finally
10 destroyed or deleted, in digital form or otherwise.

11 (5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
12 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

13 (6) (a) "FACIAL RECOGNITION SERVICE" MEANS TECHNOLOGY THAT
14 ANALYZES FACIAL FEATURES TO FACILITATE THE IDENTIFICATION,
15 VERIFICATION, OR PERSISTENT TRACKING OF INDIVIDUALS IN STILL OR
16 VIDEO IMAGES.

17 (b) "FACIAL RECOGNITION SERVICE" DOES NOT INCLUDE:

18 (I) THE ANALYSIS OF FACIAL FEATURES TO GRANT OR DENY ACCESS
19 TO AN ELECTRONIC DEVICE;

20 (II) A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A
21 TABLET OR SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL
22 FEATURES IN ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN
23 ADDRESS BOOK OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD
24 USE; OR

25 (III) THE USE OF AN AUTOMATED OR SEMI-AUTOMATED PROCESS
26 BY A LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF REDACTING A
27 RECORDING FOR RELEASE OR DISCLOSURE TO PROTECT THE PRIVACY OF A

1 SUBJECT DEPICTED IN THE RECORDING, SO LONG AS THE PROCESS DOES NOT
2 GENERATE OR RESULT IN THE RETENTION OF ANY BIOMETRIC DATA OR
3 SURVEILLANCE INFORMATION.

4 (2) (7) "Information technology" means technology,
5 infrastructure, equipment, systems, OR software ~~controlling, displaying,~~
6 ~~switching, interchanging, transmitting, and receiving~~ THAT CONTROLS,
7 DISPLAYS, SWITCHES, INTERCHANGES, TRANSMITS, AND RECEIVES data or
8 information, including audio, video, graphics, and text. "Information
9 technology" shall be construed broadly to incorporate future technologies
10 that change or supplant those in effect as of September 7, 2021.

11 (2.5) (8) "Information technology budget request" means a budget
12 request from a state agency or state institution of higher education for the
13 installation, development, maintenance, or upgrade of information
14 technology, including the purchase of services from the office, ~~of~~
15 ~~information technology~~ on the condition that the use of such services is
16 the most cost beneficial option or falls within the duties and
17 responsibilities of the office ~~of information technology~~ or the office's
18 chief information officer as described in sections 24-37.5-105 and
19 24-37.5-106. "Information technology budget request" does not include
20 budget requests that are primarily operational in nature or a budget
21 request where the majority of funding will be used to support or modify
22 state staffing levels.

23 (3) (9) "Office of information technology" OR "OFFICE" means the
24 office of information technology created in section 24-37.5-103. ~~C.R.S.~~

25 (4) (10) "Oversee" means reviews of major information
26 technology projects as defined in section 24-37.5-102 (19), reviews of the
27 office's budget requests for information technology projects, and ensuring

1 that information technology projects follow best practice standards as
2 established by the office. of information technology. "Oversee" does not
3 include interference with the office's general responsibilities set forth in
4 this article 3.

5 (5) (11) "State agency" means all of the departments, divisions,
6 commissions, boards, bureaus, and institutions in the executive branch of
7 the state government. "State agency" does not include the legislative or
8 judicial department, the department of law, the department of state, the
9 department of the treasury, or state-supported institutions of higher
10 education, including the Auraria higher education center established in
11 article 70 of title 23. ~~C.R.S.~~

12 (12) "TASK FORCE" MEANS THE TASK FORCE FOR THE
13 CONSIDERATION OF FACIAL RECOGNITION SERVICES CREATED IN SECTION
14 2-3-1707.

15 **SECTION 4.** In Colorado Revised Statutes, **add** 24-33.5-117,
16 24-33.5-118, and 24-33.5-119 as follows:

17 **24-33.5-117. Use of facial recognition service by law**
18 **enforcement agencies - surveillance and tracking - prohibited uses -**
19 **warrants - definition.** (1) A LAW ENFORCEMENT AGENCY SHALL NOT USE
20 A FACIAL RECOGNITION SERVICE TO ENGAGE IN ONGOING SURVEILLANCE;
21 CONDUCT REAL-TIME IDENTIFICATION; IDENTIFY PERSONS, INTERESTS, OR
22 SUSPECTS IN A PHOTOGRAPH; OR START PERSISTENT TRACKING UNLESS:

23 (a) THE LAW ENFORCEMENT AGENCY OBTAINS A WARRANT
24 AUTHORIZING SUCH USE; OR

25 (b) THE LAW ENFORCEMENT AGENCY OBTAINS A COURT ORDER
26 AUTHORIZING THE USE OF THE FACIAL RECOGNITION SERVICE FOR THE
27 SOLE PURPOSE OF LOCATING OR IDENTIFYING A MISSING PERSON OR

1 IDENTIFYING A DECEASED PERSON. A COURT MAY ISSUE AN EX PARTE
2 ORDER UNDER THIS SUBSECTION (1)(b) IF A LAW ENFORCEMENT OFFICER
3 CERTIFIES AND THE COURT FINDS THAT THE INFORMATION LIKELY TO BE
4 OBTAINED IS RELEVANT TO LOCATING OR IDENTIFYING A MISSING PERSON
5 OR IDENTIFYING A DECEASED PERSON.

6 (2) A LAW ENFORCEMENT AGENCY SHALL NOT APPLY A FACIAL
7 RECOGNITION SERVICE TO ANY INDIVIDUAL BASED ON THE INDIVIDUAL'S
8 RELIGIOUS, POLITICAL, OR SOCIAL VIEWS OR ACTIVITIES; PARTICIPATION IN
9 A PARTICULAR NONCRIMINAL ORGANIZATION OR LAWFUL EVENT; OR
10 ACTUAL OR PERCEIVED RACE, ETHNICITY, CITIZENSHIP, PLACE OF ORIGIN,
11 IMMIGRATION STATUS, AGE, DISABILITY, GENDER, GENDER EXPRESSION,
12 GENDER IDENTITY, SEXUAL ORIENTATION, OR OTHER CHARACTERISTIC
13 PROTECTED BY LAW.

14 (3) A LAW ENFORCEMENT AGENCY SHALL NOT USE A FACIAL
15 RECOGNITION SERVICE TO CREATE A RECORD DEPICTING ANY INDIVIDUAL'S
16 EXERCISE OF RIGHTS GUARANTEED BY THE FIRST AMENDMENT OF THE
17 UNITED STATES CONSTITUTION AND BY SECTION 10 OF ARTICLE II OF THE
18 STATE CONSTITUTION.

19 (4) A LAW ENFORCEMENT AGENCY SHALL NOT USE THE RESULTS
20 OF A FACIAL RECOGNITION SERVICE AS THE SOLE BASIS TO ESTABLISH
21 PROBABLE CAUSE IN A CRIMINAL INVESTIGATION. THE RESULTS OF A
22 FACIAL RECOGNITION SERVICE MAY BE USED IN CONJUNCTION WITH OTHER
23 INFORMATION AND EVIDENCE LAWFULLY OBTAINED BY A LAW
24 ENFORCEMENT OFFICER TO ESTABLISH PROBABLE CAUSE IN A CRIMINAL
25 INVESTIGATION.

26 (5) A LAW ENFORCEMENT AGENCY SHALL NOT SUBSTANTIVELY
27 MANIPULATE AN IMAGE FOR USE IN A FACIAL RECOGNITION SERVICE IN A

1 MANNER NOT CONSISTENT WITH THE FACIAL RECOGNITION SERVICE
2 PROVIDER'S INTENDED USE AND TRAINING.

3 (6) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS
4 THE MEANING SET FORTH IN SECTION 2-3-1701 (6).

5 **24-33.5-118. Use of facial recognition service by law**
6 **enforcement agencies - disclosure to criminal defendant required -**
7 **warrants - definitions. (1) A LAW ENFORCEMENT AGENCY SHALL**

8 DISCLOSE ITS USE OF A FACIAL RECOGNITION SERVICE ON A CRIMINAL
9 DEFENDANT TO THAT DEFENDANT IN A TIMELY MANNER PRIOR TO TRIAL.

10 (2) IN JANUARY OF EACH YEAR, ANY JUDGE WHO HAS ISSUED OR
11 EXTENDED A WARRANT FOR THE USE OF A FACIAL RECOGNITION SERVICE
12 AS DESCRIBED IN SECTION 24-33.5-117 DURING THE PRECEDING YEAR, OR
13 WHO HAS DENIED APPROVAL OF SUCH A WARRANT DURING THAT YEAR,
14 SHALL REPORT TO THE STATE COURT ADMINISTRATOR AND TO THE TASK
15 FORCE FOR THE CONSIDERATION OF FACIAL RECOGNITION SERVICES:

16 (a) THE FACT THAT A WARRANT OR EXTENSION WAS APPLIED FOR;

17 (b) THE FACT THAT THE WARRANT OR EXTENSION WAS GRANTED
18 AS APPLIED FOR, WAS MODIFIED, OR WAS DENIED;

19 (c) THE PERIOD OF SURVEILLANCE AUTHORIZED BY THE WARRANT
20 AND THE NUMBER AND DURATION OF ANY EXTENSIONS OF THE WARRANT;

21 (d) THE IDENTITY OF THE APPLYING INVESTIGATIVE OR LAW
22 ENFORCEMENT OFFICER AND AGENCY MAKING THE APPLICATION AND THE
23 PERSON AUTHORIZING THE APPLICATION; AND

24 (e) THE NATURE OF THE PUBLIC SPACES WHERE THE SURVEILLANCE
25 WAS CONDUCTED.

26 (3) (a) IN JANUARY OF EACH YEAR, ANY LAW ENFORCEMENT
27 AGENCY THAT HAS APPLIED FOR A WARRANT OR AN EXTENSION OF A

1 WARRANT FOR THE USE OF A FACIAL RECOGNITION SERVICE TO ENGAGE IN
2 ANY SURVEILLANCE SHALL PROVIDE TO THE LAW ENFORCEMENT AGENCY'S
3 REPORTING AUTHORITY A REPORT SUMMARIZING NONIDENTIFYING
4 DEMOGRAPHIC DATA OF INDIVIDUALS NAMED IN WARRANT APPLICATIONS
5 AS SUBJECTS OF SURVEILLANCE WITH THE USE OF A FACIAL RECOGNITION
6 SERVICE.

7 (b) A REPORTING AUTHORITY TO WHICH A LAW ENFORCEMENT
8 AGENCY PROVIDES A REPORT DESCRIBED IN SUBSECTION (3)(a) OF THIS
9 SECTION SHALL PROVIDE A COPY OF THE REPORT TO THE TASK FORCE FOR
10 THE CONSIDERATION OF FACIAL RECOGNITION SERVICES UPON THE TASK
11 FORCE'S REQUEST.

12 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "FACIAL RECOGNITION SERVICE" HAS THE MEANING SET FORTH
15 IN SECTION 2-3-1701 (6).

16 (b) "REPORTING AUTHORITY" MEANS:

17 (I) FOR A MUNICIPAL POLICE DEPARTMENT, THE CITY COUNCIL OR
18 OTHER CHIEF ADMINISTRATIVE BODY OF THE MUNICIPALITY;

19 (II) FOR A COUNTY SHERIFF'S OFFICE, THE BOARD OF COUNTY
20 COMMISSIONERS OF THE COUNTY; OR

21 (III) FOR A STATE LAW ENFORCEMENT AGENCY, THE EXECUTIVE
22 DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY.

23 (c) "TASK FORCE FOR THE CONSIDERATION OF FACIAL
24 RECOGNITION SERVICES" MEANS THE TASK FORCE CREATED IN SECTION
25 2-3-1707.

26 **24-33.5-119. Contracting for facial recognition service by state**
27 **and local government agencies prohibited - exceptions - definition -**

1 **repeal.** (1) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, EXCEPT
2 AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AN AGENCY OF THE
3 STATE OR OF ANY LOCAL GOVERNMENT SHALL NOT EXECUTE A CONTRACT
4 WITH ANY VENDOR FOR THE PURCHASE OF, OR SERVICES RELATED TO, ANY
5 FACIAL RECOGNITION SERVICE.

6 (2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
7 SECTION DOES NOT APPLY TO:

8 (a) A CONTRACT THAT WAS EXECUTED BEFORE THE EFFECTIVE
9 DATE OF THIS SECTION, INCLUDING SUCH A CONTRACT THAT IS RENEWED
10 AFTER THE EFFECTIVE DATE OF THIS SECTION;

11 (b) A LAW ENFORCEMENT AGENCY;

12 (c) AN AGENCY THAT:

13 (I) IS REQUIRED TO USE A SPECIFIC FACIAL RECOGNITION SERVICE
14 PURSUANT TO A FEDERAL REGULATION OR ORDER OR THAT USES A FACIAL
15 RECOGNITION SERVICE IN PARTNERSHIP WITH A FEDERAL AGENCY TO
16 FULFILL A CONGRESSIONAL MANDATE, FULFILL AVIATION SECURITY
17 DIRECTIVES, OR COMPLY WITH FEDERAL LAW;

18 (II) USES A FACIAL RECOGNITION SERVICE IN ASSOCIATION WITH
19 A FEDERAL AGENCY TO VERIFY THE IDENTITY OF INDIVIDUALS PRESENTING
20 THEMSELVES FOR TRAVEL AT AN AIRPORT; OR

21 (III) USES A FACIAL RECOGNITION SERVICE IN CONNECTION WITH
22 A PHYSICAL ACCESS CONTROL SYSTEM IN ORDER TO GRANT OR DENY
23 ACCESS TO A STERILE AREA OF AN AIRPORT;

24 (d) THE USE OF A FACIAL RECOGNITION SERVICE SOLELY FOR
25 RESEARCH PURPOSES BY A STATE AGENCY, SO LONG AS THE USE DOES NOT
26 RESULT IN OR AFFECT ANY DECISIONS THAT PRODUCE LEGAL EFFECTS
27 CONCERNING INDIVIDUALS OR SIMILARLY SIGNIFICANT EFFECTS

1 CONCERNING INDIVIDUALS; OR

2 (e) A CONTRACT FOR THE PURCHASE OF, OR SERVICES RELATED TO,
3 A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A TABLET OR
4 SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL FEATURES IN
5 ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN ADDRESS BOOK
6 OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD USE.

7 (3) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS
8 THE MEANING SET FORTH IN SECTION 2-3-1701 (6).

9 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

10 **SECTION 5.** In Colorado Revised Statutes, **add 22-32-150** as
11 follows:

12 **22-32-150. Contracting for facial recognition service by**
13 **schools prohibited - definition - repeal.** (1) EXCEPT AS DESCRIBED IN
14 SUBSECTION (2) OF THIS SECTION, A SCHOOL DISTRICT OR A SCHOOL OR A
15 CHARTER SCHOOL OF A SCHOOL DISTRICT SHALL NOT EXECUTE A
16 CONTRACT WITH ANY VENDOR FOR THE PURCHASE OF, OR SERVICES
17 RELATED TO, ANY FACIAL RECOGNITION SERVICE.

18 (2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
19 SECTION DOES NOT APPLY TO:

20 (a) A CONTRACT THAT WAS EXECUTED BEFORE THE EFFECTIVE
21 DATE OF THIS SECTION, INCLUDING SUCH A CONTRACT THAT IS RENEWED
22 AFTER THE EFFECTIVE DATE OF THIS SECTION; OR

23 (b) A CONTRACT FOR THE PURCHASE OF, OR SERVICES RELATED TO,
24 A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A TABLET OR
25 SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL FEATURES IN
26 ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN ADDRESS BOOK
27 OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD USE.

1 (3) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS
2 THE MEANING SET FORTH IN SECTION 2-3-1701 (6).

3 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

4 **SECTION 6.** In Colorado Revised Statutes, **add 22-30.5-529** as
5 follows:

6 **22-30.5-529. Contracting for facial recognition service by**
7 **institute charter schools prohibited - definition - repeal.** (1) EXCEPT
8 AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AN INSTITUTE CHARTER
9 SCHOOL SHALL NOT EXECUTE A CONTRACT WITH ANY VENDOR FOR THE
10 PURCHASE OF, OR SERVICES RELATED TO, ANY FACIAL RECOGNITION
11 SERVICE.

12 (2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS
13 SECTION DOES NOT APPLY TO:

14 (a) A CONTRACT THAT WAS EXECUTED BEFORE THE EFFECTIVE
15 DATE OF THIS SECTION, INCLUDING SUCH A CONTRACT THAT IS RENEWED
16 AFTER THE EFFECTIVE DATE OF THIS SECTION; OR

17 (b) A CONTRACT FOR THE PURCHASE OF, OR SERVICES RELATED TO,
18 A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A TABLET OR
19 SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL FEATURES IN
20 ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN ADDRESS BOOK
21 OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD USE.

22 (3) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS
23 THE MEANING SET FORTH IN SECTION 2-3-1701 (6).

24 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

25 **SECTION 7.** In Colorado Revised Statutes, **18-5.5-102, add (5)**
26 as follows:

27 **18-5.5-102. Cybercrime.** (5) NOTWITHSTANDING ANY OTHER

1 PROVISION OF THIS SECTION, AN INDIVIDUAL MAY AUTHORIZE AN AGENT
2 TO ACCESS AND PROCESS, ON THAT INDIVIDUAL'S BEHALF, THAT
3 INDIVIDUAL'S PERSONAL DATA OR OTHER INFORMATION HELD ON A
4 COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM AND THAT IS
5 OTHERWISE ACCESSIBLE TO THE INDIVIDUAL. AN AUTHORIZED AGENT
6 REMAINS LIABLE FOR ANY UNAUTHORIZED ACTIVITY ON A SYSTEM UNDER
7 APPLICABLE UNFAIR COMPETITION LAWS; THE FEDERAL "COMPUTER
8 FRAUD AND ABUSE ACT", 18 U.S.C. SEC. 1030 ET SEQ., AS AMENDED; AND
9 OTHER PROVISIONS OF THIS SECTION.

10 **SECTION 8.** In Colorado Revised Statutes, 24-30-1404, **amend**
11 (7)(h) as follows:

12 **24-30-1404. Contracts - definition.** (7) (h) The six-month
13 deadline imposed by ~~paragraph (a) of this subsection (7)~~ SUBSECTION
14 (7)(a) OF THIS SECTION does not apply to information technology projects
15 that are overseen by the joint technology committee pursuant to part 17
16 of article 3 of title 2. C.R.S. ~~For the purposes of this paragraph (h)~~ AS
17 USED IN THIS SUBSECTION (7)(h), "information technology" has the **same**
18 meaning as provided in ~~section 2-3-1701 (2), C.R.S.~~ SECTION 2-3-1701
19 (7).

20 **SECTION 9.** In Colorado Revised Statutes, 24-37-101, **amend**
21 the introductory portion and (5) as follows:

22 **24-37-101. Definitions.** As used in this ~~article~~ ARTICLE 37, unless
23 the context otherwise requires:

24 (5) "Information technology budget request" has the **same**
25 meaning as set forth in ~~section 2-3-1701 (2.5), C.R.S.~~ SECTION 2-3-1701
26 (8).

27 **SECTION 10. Appropriation.** (1) For the 2021-22 state fiscal

1 year, \$11,109 is appropriated to the legislative department. This
2 appropriation is from the general fund. To implement this act, the
3 department may use this appropriation as follows:

4 (a) \$943 for use by the general assembly; and

5 (b) \$10,166 for use by the legislative council, which amount is
6 based on an assumption that the legislative council will require an
7 additional 0.2 FTE.

8 **SECTION 11. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2022 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.