

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

LLS NO. 22-0676.01 Richard Sweetman x4333

**SENATE BILL 22-113**

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**SENATE SPONSORSHIP**

**Hansen,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

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**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 ARTIFICIAL INTELLIGENCE, RESTRICTING**  
104            **THE USE OF FACIAL RECOGNITION SERVICES BY STATE AND**  
105            **LOCAL GOVERNMENT AGENCIES, TEMPORARILY PROHIBITING**  
106            **THE USE OF FACIAL RECOGNITION SERVICES BY PUBLIC**  
107            **SCHOOLS, AND MAKING AN APPROPRIATION.**

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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>.)*

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.

**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 artificial**  
5 **intelligence - creation - membership - duties - compensation - staff**  
6 **support - repeal. (1) Creation. (a) THERE IS CREATED A TASK FORCE**  
7 **FOR THE CONSIDERATION OF ARTIFICIAL INTELLIGENCE. THE TASK FORCE**  
8 **CONSISTS OF MEMBERS APPOINTED AS PROVIDED IN SUBSECTION (1)(b) OF**  
9 **THIS SECTION.**

10 \_\_\_\_\_ (b) THE TASK FORCE INCLUDES THE FOLLOWING

1 TWENTY-ONE MEMBERS:

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

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

7 (III) THE CHAIR OF THE STATE BOARD OF EDUCATION OR THE  
8 CHAIR'S DESIGNEE;

9 (IV) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION  
10 CREATED IN SECTION 24-33.5-401 OR THE DIRECTOR'S DESIGNEE;"

11 (V) ONE MEMBER WHO REPRESENTS THE COLORADO DISTRICT  
12 ATTORNEYS' COUNCIL;

13 (VI) ONE MEMBER WHO REPRESENTS THE COUNTY SHERIFFS OF  
14 COLORADO OR A SUCCESSOR ORGANIZATION;

15 (VII) ONE MEMBER WHO REPRESENTS THE COLORADO  
16 ASSOCIATION OF CHIEFS OF POLICE OR A SUCCESSOR ORGANIZATION;

17 (VIII) TWO MEMBERS WHO ARE STATE REPRESENTATIVES, TO BE  
18 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, WHICH  
19 MEMBERS MUST NOT BELONG TO THE SAME POLITICAL PARTY;

20 (IX) TWO MEMBERS WHO ARE STATE SENATORS, TO BE APPOINTED  
21 BY THE PRESIDENT OF THE SENATE, WHICH MEMBERS MUST NOT BELONG  
22 TO THE SAME POLITICAL PARTY;

23 (X) TWO MEMBERS WHO REPRESENT LOCAL SCHOOL DISTRICT  
24 BOARDS OF EDUCATION, ONE OF WHOM TO BE APPOINTED BY THE SPEAKER  
25 OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM TO BE APPOINTED  
26 BY THE PRESIDENT OF THE SENATE;

27 (XI) TWO MEMBERS WHO ARE INSTRUCTORS AT ONE OR MORE

1 INSTITUTIONS OF HIGHER EDUCATION AND HAVE EXPERT KNOWLEDGE OF,  
2 AND EXPERIENCE WITH, ARTIFICIAL INTELLIGENCE TECHNOLOGY, ONE OF  
3 WHOM TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF  
4 REPRESENTATIVES AND ONE OF WHOM TO BE APPOINTED BY THE  
5 PRESIDENT OF THE SENATE;

6 (XII) TWO MEMBERS WHO ARE BUSINESS PROFESSIONALS WITH  
7 EXPERT KNOWLEDGE OF, AND EXPERIENCE WITH, ARTIFICIAL  
8 INTELLIGENCE PRODUCTS, ONE OF WHOM TO BE APPOINTED BY THE  
9 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM TO BE  
10 APPOINTED BY THE PRESIDENT OF THE SENATE;

11 (XIII) TWO MEMBERS WHO ARE ATTORNEYS WITH EXPERT  
12 KNOWLEDGE OF, AND EXPERIENCE WITH, FEDERAL AND STATE LAWS  
13 CONCERNING ARTIFICIAL INTELLIGENCE, ONE OF WHOM TO BE APPOINTED  
14 BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM  
15 TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

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

19 (XV) ONE MEMBER WHO REPRESENTS DISPROPORTIONATELY  
20 IMPACTED COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II), TO  
21 BE APPOINTED BY THE PRESIDENT OF THE SENATE.

22 (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE  
23 PRESIDENT OF THE SENATE SHALL MAKE EACH OF THE INITIAL  
24 APPOINTMENTS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION NOT  
25 LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

26 (d) THE TERMS OF THE APPOINTED MEMBERS OF THE TASK FORCE  
27 ARE AS FOLLOWS:

1           (I) THE STATE REPRESENTATIVES APPOINTED PURSUANT TO  
2           SUBSECTION (1)(b)(VIII) OF THIS SECTION MAY SERVE INDEFINITELY, AT  
3           THE DISCRETION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, SO  
4           LONG AS THEY REMAIN STATE REPRESENTATIVES;

5           (II) THE STATE SENATORS APPOINTED PURSUANT TO SUBSECTION  
6           (1)(b)(IX) OF THIS SECTION MAY SERVE INDEFINITELY, AT THE DISCRETION  
7           OF THE PRESIDENT OF THE SENATE, SO LONG AS THEY REMAIN STATE  
8           SENATORS;

9           (III) OF THE TWO MEMBERS APPOINTED PURSUANT TO EACH OF  
10           SUBSECTIONS (1)(b)(X) AND (1)(b)(XI) OF THIS SECTION, THE INITIAL  
11           TERM OF THE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF  
12           REPRESENTATIVES IS TWO YEARS AND THE INITIAL TERM OF THE MEMBER  
13           APPOINTED BY THE PRESIDENT OF THE SENATE IS FOUR YEARS, AND  
14           THEREAFTER THE TERMS OF EACH SUCH MEMBER IS FOUR YEARS;

15           (IV) OF THE TWO MEMBERS APPOINTED PURSUANT TO EACH OF  
16           SUBSECTIONS (1)(b)(XII) AND (1)(b)(XIII) OF THIS SECTION, THE INITIAL  
17           TERM OF THE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE IS  
18           TWO YEARS AND THE INITIAL TERM OF THE MEMBER APPOINTED BY THE  
19           SPEAKER OF THE HOUSE OF REPRESENTATIVES IS FOUR YEARS, AND  
20           THEREAFTER THE TERMS OF EACH SUCH MEMBER IS FOUR YEARS; AND

21           (V) THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS  
22           (1)(b)(XIV) AND (1)(b)(XV) OF THIS SECTION SHALL SERVE TERMS OF  
23           FOUR YEARS.

24           (e) ANY VACANCY THAT OCCURS AMONG THE APPOINTED  
25           MEMBERS OF THE TASK FORCE SHALL BE FILLED BY THE APPROPRIATE  
26           APPOINTING AUTHORITY AS SOON AS PRACTICABLE IN ACCORDANCE WITH  
27           THE LIMITATIONS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION.

1           (f) IN MAKING APPOINTMENTS TO THE TASK FORCE, THE SPEAKER  
2           OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE  
3           SHALL ENSURE THAT:

4           (I) THE MEMBERSHIP OF THE TASK FORCE REFLECTS THE ETHNIC,  
5           CULTURAL, AND GENDER DIVERSITY OF THE STATE; INCLUDES  
6           REPRESENTATION OF ALL AREAS OF THE STATE; AND, TO THE EXTENT  
7           PRACTICABLE, INCLUDES PERSONS WITH DISABILITIES; AND

8           (II) THE TWO MEMBERS APPOINTED PURSUANT TO EACH OF  
9           SUBSECTIONS (1)(b)(X) TO (1)(b)(XIII) OF THIS SECTION RESIDE IN  
10          DIFFERENT CONGRESSIONAL DISTRICTS.

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

18          (2) **Issues for study.** THE TASK FORCE SHALL EXAMINE AND  
19          PROVIDE RECOMMENDATIONS CONCERNING THE USE OF ARTIFICIAL  
20          INTELLIGENCE BY AGENCIES OF STATE AND LOCAL GOVERNMENTS,  
21          INCLUDING:

22               (a) REGULATION, APPROVAL, AND PROCUREMENT OF ARTIFICIAL  
23               INTELLIGENCE;

24               (b) ACCESS TO DATA COLLECTED BY ARTIFICIAL INTELLIGENCE;

25               (c) EDUCATION OF THE PUBLIC CONCERNING ARTIFICIAL  
26               INTELLIGENCE, INCLUDING IN PUBLIC SCHOOLS AND INSTITUTIONS OF  
27               HIGHER EDUCATION;

1 (d) ETHICAL CONSIDERATIONS RELATING TO THE USE OF  
2 ARTIFICIAL INTELLIGENCE;

3 (e) TRANSPARENCY AND DISCLOSURE REQUIREMENTS CONCERNING  
4 HOW STATE AND LOCAL GOVERNMENT AGENCIES USE ARTIFICIAL  
5 INTELLIGENCE;

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

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

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

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

16 (a) MEET ON OR BEFORE OCTOBER 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, SPECIFIES:

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

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

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

12 (4) **Compensation.** NONLEGISLATIVE MEMBERS OF THE TASK  
13 FORCE AND NONLEGISLATIVE MEMBERS OF ANY SUBCOMMITTEES OF THE  
14 TASK FORCE SERVE WITHOUT COMPENSATION. COMPENSATION OF  
15 LEGISLATIVE MEMBERS IS PAID FROM   APPROPRIATIONS TO THE GENERAL  
16 ASSEMBLY.

17 (5) **Staff support.** THE DIRECTOR OF RESEARCH OF THE  
18 LEGISLATIVE COUNCIL MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE  
19 AS THE DIRECTOR OF RESEARCH DEEMS APPROPRIATE, SUBJECT TO  
20 AVAILABLE APPROPRIATIONS. THE TASK FORCE MAY ALSO ACCEPT  
21 DONATIONS OF IN-KIND SERVICES FOR STAFF SUPPORT FROM THE PRIVATE  
22 SECTOR.

23 (6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1,  
24 2032. PRIOR TO THE REPEAL, THE TASK FORCE IS SCHEDULED FOR REVIEW  
25 IN ACCORDANCE WITH SECTION 2-3-1203.

26 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add** (23)  
27 as follows:

1           **2-3-1203. Sunset review of advisory committees - legislative**  
2           **declaration - definition - repeal.** (23) (a) THE FOLLOWING STATUTORY  
3           AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL  
4           REPEAL ON SEPTEMBER 1, 2032:

5           (I) THE TASK FORCE FOR THE CONSIDERATION OF ARTIFICIAL  
6           INTELLIGENCE CREATED IN SECTION 2-3-1707.

7           (b) THIS SUBSECTION (23) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
8           2034.

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

11          **2-3-1701. Definitions.** As used in this part 17, UNLESS THE  
12          CONTEXT OTHERWISE REQUIRES:

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

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

17          (b) LEARN FROM PAST BEHAVIOR AND RESULTS AND ADAPT THEIR  
18          BEHAVIOR ACCORDINGLY.

19          ~~(1)~~(2) "Committee" means the joint technology committee created  
20          in section 2-3-1702.

21          ~~(1.3)~~ (3) "Cybersecurity" means a broad range of technologies,  
22          processes, and practices designed to protect networks, computers,  
23          programs, and data from attack, damage, or unauthorized access.

24          ~~(1.7)~~ (4) "Data privacy" means the collection and dissemination  
25          of data AND technology and the public expectation of privacy. "Data  
26          privacy" also includes the way personally identifiable information or  
27          other sensitive information is collected, stored, used, and finally

1 destroyed or deleted, in digital form or otherwise.

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

4 (6) "FACIAL RECOGNITION SERVICE" HAS THE MEANING SET FORTH  
5 IN SECTION 24-18-301 (5).

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

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

25 ~~(3)~~ (9) "Office of information technology" OR "OFFICE" means the  
26 office of information technology created in section 24-37.5-103. ~~C.R.S.~~

27 ~~(4)~~ (10) "Oversee" means reviews of major information

1 technology projects as defined in section 24-37.5-102 (19), reviews of the  
2 office's budget requests for information technology projects, and ensuring  
3 that information technology projects follow best practice standards as  
4 established by the office. ~~of information technology.~~ "Oversee" does not  
5 include interference with the office's general responsibilities set forth in  
6 this article 3.

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

14 (12) "TASK FORCE" MEANS THE TASK FORCE FOR THE  
15 CONSIDERATION OF ARTIFICIAL INTELLIGENCE CREATED IN SECTION  
16 2-3-1707.

17 **SECTION 4.** In Colorado Revised Statutes, **add** part 3 to article  
18 18 of title 24 as follows:

19 **PART 3**

20 **USE OF FACIAL RECOGNITION SERVICES BY STATE AND**  
21 **LOCAL GOVERNMENT AGENCIES**

22 **24-18-301. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "ACCOUNTABILITY REPORT" MEANS A REPORT DEVELOPED  
25 PURSUANT TO SECTION 24-18-302 (2).

26 (2) "AGENCY" MEANS:

27 (a) AN AGENCY OF THE STATE GOVERNMENT OR OF A LOCAL

1     GOVERNMENT; OR

2             (b) A STATE INSTITUTION OF HIGHER EDUCATION.

3             (3) "DECISIONS THAT PRODUCE LEGAL EFFECTS CONCERNING  
4 INDIVIDUALS OR SIMILARLY SIGNIFICANT EFFECTS CONCERNING  
5 INDIVIDUALS" MEANS DECISIONS THAT:

6             (a) RESULT IN THE PROVISION OR DENIAL OF FINANCIAL AND  
7 LENDING SERVICES, HOUSING, INSURANCE, EDUCATION ENROLLMENT,  
8 CRIMINAL JUSTICE, EMPLOYMENT OPPORTUNITIES, HEALTH-CARE  
9 SERVICES, OR ACCESS TO BASIC NECESSITIES SUCH AS FOOD AND WATER;

10     OR

11             (b) IMPACT THE CIVIL RIGHTS OF INDIVIDUALS.

12             (4) "ENROLL", "ENROLLED", OR "ENROLLING" MEANS:

13             (a) THE PROCESS BY WHICH A FACIAL RECOGNITION SERVICE:

14             (I) CREATES A FACIAL TEMPLATE FROM ONE OR MORE IMAGES OF  
15 AN INDIVIDUAL; AND

16             (II) ADDS THE FACIAL TEMPLATE TO A GALLERY THAT IS USED BY  
17 THE FACIAL RECOGNITION SERVICE FOR RECOGNITION OR PERSISTENT  
18 TRACKING OF INDIVIDUALS; OR

19             (b) THE ACT OF ADDING AN EXISTING FACIAL TEMPLATE DIRECTLY  
20 INTO A GALLERY THAT IS USED BY A FACIAL RECOGNITION SERVICE.

21             (5)(a) "FACIAL RECOGNITION SERVICE" MEANS TECHNOLOGY THAT  
22 ANALYZES FACIAL FEATURES TO FACILITATE THE IDENTIFICATION,  
23 VERIFICATION, OR PERSISTENT TRACKING OF INDIVIDUALS IN STILL OR  
24 VIDEO IMAGES.

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

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

1 (II) THE USE OF AN AUTOMATED OR SEMIAUTOMATED PROCESS BY  
2 A LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF REDACTING A  
3 RECORDING FOR RELEASE OR DISCLOSURE TO PROTECT THE PRIVACY OF A  
4 SUBJECT DEPICTED IN THE RECORDING, SO LONG AS THE PROCESS DOES NOT  
5 GENERATE OR RESULT IN THE RETENTION OF ANY BIOMETRIC DATA OR  
6 SURVEILLANCE INFORMATION.

7 (6) "FACIAL TEMPLATE" MEANS A MACHINE-INTERPRETABLE  
8 PATTERN OF FACIAL FEATURES THAT IS EXTRACTED FROM ONE OR MORE  
9 IMAGES OF AN INDIVIDUAL BY A FACIAL RECOGNITION SERVICE.

10 (7) "IDENTIFICATION" MEANS THE USE OF A FACIAL RECOGNITION  
11 SERVICE BY AN AGENCY TO DETERMINE WHETHER AN UNKNOWN  
12 INDIVIDUAL MATCHES ANY INDIVIDUAL WHOSE IDENTITY IS KNOWN TO THE  
13 AGENCY AND WHO HAS BEEN ENROLLED BY REFERENCE TO THAT IDENTITY  
14 IN A GALLERY USED BY THE FACIAL RECOGNITION SERVICE.

15 (8) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE  
16 MUNICIPALITY, A COUNTY, OR A CITY AND COUNTY.

17 (9) "MEANINGFUL HUMAN REVIEW" MEANS REVIEW OR OVERSIGHT  
18 BY ONE OR MORE INDIVIDUALS WHO ARE TRAINED IN ACCORDANCE WITH  
19 SECTION 24-18-305 AND WHO HAVE THE AUTHORITY TO ALTER A DECISION  
20 UNDER REVIEW.

21 (10) "NONIDENTIFYING DEMOGRAPHIC DATA" MEANS DATA THAT  
22 IS NOT LINKED OR REASONABLY LINKABLE TO AN IDENTIFIED OR  
23 IDENTIFIABLE INDIVIDUAL AND INCLUDES INFORMATION ABOUT AN  
24 INDIVIDUAL'S GENDER, RACE, ETHNICITY, AGE, OR LOCATION.

25 (11) (a) "ONGOING SURVEILLANCE" MEANS THE CONTINUAL USE  
26 OF A FACIAL RECOGNITION SERVICE BY AN AGENCY TO TRACK IN REAL  
27 TIME THE PHYSICAL MOVEMENTS OF A SPECIFIED INDIVIDUAL THROUGH

1 ONE OR MORE PUBLIC PLACES.

2 (b) "ONGOING SURVEILLANCE" DOES NOT INCLUDE A SINGLE  
3 RECOGNITION OR ATTEMPTED RECOGNITION OF AN INDIVIDUAL IF NO  
4 ATTEMPT IS MADE TO SUBSEQUENTLY TRACK THAT INDIVIDUAL'S  
5 MOVEMENT OVER TIME AFTER THE INDIVIDUAL HAS BEEN RECOGNIZED.

6 (12) "PERSISTENT TRACKING" MEANS THE USE OF A FACIAL  
7 RECOGNITION SERVICE BY AN AGENCY TO TRACK THE MOVEMENTS OF AN  
8 INDIVIDUAL ON A PERSISTENT BASIS WITHOUT IDENTIFICATION OR  
9 VERIFICATION OF THE INDIVIDUAL. TRACKING BECOMES PERSISTENT AS  
10 SOON AS:

11 (a) THE FACIAL TEMPLATE THAT PERMITS THE TRACKING IS  
12 MAINTAINED FOR MORE THAN FORTY-EIGHT HOURS AFTER FIRST  
13 ENROLLING THAT TEMPLATE; OR

14 (b) DATA CREATED BY THE FACIAL RECOGNITION SERVICE IS  
15 LINKED TO ANY OTHER DATA SUCH THAT THE INDIVIDUAL WHO HAS BEEN  
16 TRACKED IS IDENTIFIED OR IDENTIFIABLE.

17 (13) "RECOGNITION" MEANS THE USE OF A FACIAL RECOGNITION  
18 SERVICE BY AN AGENCY TO DETERMINE WHETHER AN UNKNOWN  
19 INDIVIDUAL MATCHES:

20 (a) ANY INDIVIDUAL WHO HAS BEEN ENROLLED IN A GALLERY USED  
21 BY THE FACIAL RECOGNITION SERVICE; OR

22 (b) A SPECIFIC INDIVIDUAL WHO HAS BEEN ENROLLED IN A  
23 GALLERY USED BY THE FACIAL RECOGNITION SERVICE.

24 (14) "REPORTING AUTHORITY" MEANS:

25 (a) FOR A LOCAL GOVERNMENT AGENCY, THE CITY COUNCIL,  
26 COUNTY COMMISSION, OR OTHER LOCAL GOVERNMENT AGENCY IN WHICH  
27 LEGISLATIVE POWERS ARE VESTED; AND

1 (b) FOR A STATE AGENCY, THE OFFICE OF INFORMATION  
2 TECHNOLOGY CREATED IN SECTION 24-37.5-103.

3 (15) "VERIFICATION" MEANS THE USE OF A FACIAL RECOGNITION  
4 SERVICE BY AN AGENCY TO DETERMINE WHETHER AN INDIVIDUAL IS A  
5 SPECIFIC INDIVIDUAL WHOSE IDENTITY IS KNOWN TO THE AGENCY AND  
6 WHO HAS BEEN ENROLLED BY REFERENCE TO THAT IDENTITY IN A GALLERY  
7 USED BY THE FACIAL RECOGNITION SERVICE.

8 **24-18-302. Notice of intent to use facial recognition service -**  
9 **accountability reports - public review and comment - notice -**  
10 **exemption.** (1) ON AND AFTER THE EFFECTIVE DATE OF THIS PART 3, AN  
11 AGENCY THAT USES OR INTENDS TO DEVELOP, PROCURE, OR USE A FACIAL  
12 RECOGNITION SERVICE SHALL FILE WITH ITS REPORTING AUTHORITY A  
13 NOTICE OF INTENT TO DEVELOP, PROCURE, USE, OR CONTINUE TO USE THE  
14 FACIAL RECOGNITION SERVICE AND SPECIFY A PURPOSE FOR WHICH THE  
15 TECHNOLOGY IS TO BE USED.

16 (2) EXCEPT AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION,  
17 AFTER FILING THE NOTICE OF INTENT DESCRIBED IN SUBSECTION (1) OF  
18 THIS SECTION, AND PRIOR TO DEVELOPING, PROCURING, USING, OR  
19 CONTINUING TO USE A FACIAL RECOGNITION SERVICE, AN AGENCY SHALL  
20 PRODUCE AN ACCOUNTABILITY REPORT FOR THE FACIAL RECOGNITION  
21 SERVICE. AN ACCOUNTABILITY REPORT MUST INCLUDE:

22 (a) (I) THE NAME, VENDOR, AND VERSION OF THE FACIAL  
23 RECOGNITION SERVICE; AND

24 (II) A DESCRIPTION OF ITS GENERAL CAPABILITIES AND  
25 LIMITATIONS, INCLUDING REASONABLY FORESEEABLE CAPABILITIES  
26 OUTSIDE THE SCOPE OF THE AGENCY'S PROPOSED USE;

27 (b) (I) THE TYPE OF DATA INPUTS THAT THE FACIAL RECOGNITION



1 SERVICE USES;

2 (II) HOW DATA IS GENERATED, COLLECTED, AND PROCESSED; AND

3 (III) THE TYPE OF DATA THE FACIAL RECOGNITION SERVICE IS

4 REASONABLY LIKELY TO GENERATE;

5 (c) A DESCRIPTION OF THE PURPOSE AND PROPOSED USE OF THE

6 FACIAL RECOGNITION SERVICE, INCLUDING:

7 (I) WHAT DECISION WILL BE USED TO MAKE OR SUPPORT THE

8 FACIAL RECOGNITION SERVICE; AND

9 (II) THE INTENDED BENEFITS OF THE PROPOSED USE, INCLUDING

10 ANY DATA OR RESEARCH DEMONSTRATING THOSE BENEFITS;

11 (d) A CLEAR USE AND DATA MANAGEMENT POLICY, INCLUDING

12 PROTOCOLS FOR THE FOLLOWING:

13 (I) HOW, WHEN, AND BY WHOM THE FACIAL RECOGNITION SERVICE

14 WILL BE DEPLOYED OR USED; TO WHOM DATA WILL BE AVAILABLE; THE

15 FACTORS THAT WILL BE USED TO DETERMINE WHERE, WHEN, AND HOW THE

16 TECHNOLOGY IS DEPLOYED; AND OTHER RELEVANT INFORMATION, SUCH

17 AS WHETHER THE TECHNOLOGY WILL BE OPERATED CONTINUOUSLY OR

18 USED ONLY UNDER SPECIFIC CIRCUMSTANCES;

19 (II) IF THE FACIAL RECOGNITION SERVICE WILL BE OPERATED OR

20 USED BY AN ENTITY ON THE AGENCY'S BEHALF, A DESCRIPTION OF THE

21 ENTITY'S ACCESS AND ANY APPLICABLE PROTOCOLS;

22 (III) ANY MEASURES TAKEN TO MINIMIZE INADVERTENT

23 COLLECTION OF ADDITIONAL DATA BEYOND THE AMOUNT NECESSARY FOR

24 THE SPECIFIC PURPOSE FOR WHICH THE FACIAL RECOGNITION SERVICE WILL

25 BE USED;

26 (IV) DATA INTEGRITY AND RETENTION POLICIES APPLICABLE TO

27 THE DATA COLLECTED USING THE FACIAL RECOGNITION SERVICE,

1 INCLUDING HOW THE AGENCY WILL MAINTAIN AND UPDATE RECORDS USED  
2 IN CONNECTION WITH THE SERVICE, HOW LONG THE AGENCY WILL KEEP  
3 THE DATA, AND THE PROCESSES BY WHICH DATA WILL BE DELETED;

4 (V) WHAT PROCESSES WILL BE REQUIRED PRIOR TO EACH USE OF  
5 THE FACIAL RECOGNITION SERVICE;

6 (VI) DATA SECURITY MEASURES APPLICABLE TO THE FACIAL  
7 RECOGNITION SERVICE, INCLUDING:

8 (A) HOW DATA COLLECTED USING THE FACIAL RECOGNITION  
9 SERVICE WILL BE SECURELY STORED AND ACCESSED; AND

10 (B) IF AN AGENCY INTENDS TO SHARE ACCESS TO THE FACIAL  
11 RECOGNITION SERVICE OR THE DATA FROM THAT FACIAL RECOGNITION  
12 SERVICE WITH ANY THIRD PARTY THAT IS NOT A LAW ENFORCEMENT  
13 AGENCY, THE RULES AND PROCEDURES BY WHICH THE AGENCY WILL  
14 ENSURE THAT THE THIRD PARTY COMPLIES WITH THE AGENCY'S USE AND  
15 DATA MANAGEMENT POLICY;

16 (VII) THE AGENCY'S TRAINING PROCEDURES, INCLUDING THOSE  
17 IMPLEMENTED IN ACCORDANCE WITH SECTION 24-18-305, AND HOW THE  
18 AGENCY WILL ENSURE THAT ALL PERSONNEL WHO OPERATE THE FACIAL  
19 RECOGNITION SERVICE OR ACCESS ITS DATA ARE KNOWLEDGEABLE ABOUT  
20 AND ABLE TO ENSURE COMPLIANCE WITH THE USE AND DATA  
21 MANAGEMENT POLICY BEFORE USING THE FACIAL RECOGNITION SERVICE;  
22 AND

23 (VIII) ANY OTHER POLICIES THAT WILL GOVERN USE OF THE  
24 FACIAL RECOGNITION SERVICE;

25 (e) THE AGENCY'S TESTING PROCEDURES, INCLUDING ITS  
26 PROCESSES FOR PERIODICALLY UNDERTAKING OPERATIONAL TESTS OF THE  
27 FACIAL RECOGNITION SERVICE IN ACCORDANCE WITH SECTION 24-18-304;

1 (f) INFORMATION CONCERNING THE FACIAL RECOGNITION  
2 SERVICE'S RATE OF FALSE MATCHES, POTENTIAL IMPACTS ON PROTECTED  
3 SUBPOPULATIONS, AND HOW THE AGENCY WILL ADDRESS ERROR RATES  
4 THAT ARE DETERMINED INDEPENDENTLY TO BE GREATER THAN ONE  
5 PERCENT;

6 (g) A DESCRIPTION OF ANY POTENTIAL IMPACTS OF THE FACIAL  
7 RECOGNITION SERVICE ON CIVIL RIGHTS AND LIBERTIES, INCLUDING  
8 POTENTIAL IMPACTS TO PRIVACY AND POTENTIAL DISPARATE IMPACTS ON  
9 MARGINALIZED COMMUNITIES, INCLUDING THE SPECIFIC STEPS THE  
10 AGENCY WILL TAKE TO MITIGATE THE POTENTIAL IMPACTS; AND

11 (h) THE AGENCY'S PROCEDURES FOR RECEIVING FEEDBACK,  
12 INCLUDING THE CHANNELS FOR RECEIVING FEEDBACK, FROM INDIVIDUALS  
13 AFFECTED BY THE USE OF THE FACIAL RECOGNITION SERVICE AND FROM  
14 THE COMMUNITY AT LARGE, AS WELL AS THE PROCEDURES FOR  
15 RESPONDING TO FEEDBACK.

16 (3) PRIOR TO FINALIZING AN ACCOUNTABILITY REPORT, AN  
17 AGENCY SHALL:

18 (a) ALLOW FOR A PUBLIC REVIEW AND COMMENT PERIOD;

19 (b) HOLD AT LEAST THREE PUBLIC MEETINGS TO OBTAIN FEEDBACK  
20 FROM COMMUNITIES; AND

21 (c) CONSIDER THE ISSUES RAISED BY THE PUBLIC THROUGH THE  
22 PUBLIC MEETINGS.

23 (4) AT LEAST NINETY DAYS BEFORE AN AGENCY PUTS A FACIAL  
24 RECOGNITION SERVICE INTO OPERATIONAL USE, THE AGENCY SHALL POST  
25 THE FINAL ADOPTED ACCOUNTABILITY ON THE AGENCY'S PUBLIC WEBSITE  
26 AND SUBMIT IT TO THE AGENCY'S REPORTING AUTHORITY. THE REPORTING  
27 AUTHORITY SHALL POST THE MOST RECENT VERSION OF EACH SUBMITTED

1 ACCOUNTABILITY REPORT ON ITS PUBLIC WEBSITE.

2 (5) AN AGENCY SHALL UPDATE ITS FINAL ACCOUNTABILITY  
3 REPORT AND SUBMIT THE UPDATED ACCOUNTABILITY REPORT TO THE  
4 AGENCY'S REPORTING AUTHORITY AT LEAST EVERY TWO YEARS.

5 (6) AN AGENCY SEEKING TO PROCURE A FACIAL RECOGNITION  
6 SERVICE MUST REQUIRE EACH VENDOR TO DISCLOSE ANY COMPLAINTS OR  
7 REPORTS OF BIAS REGARDING THE VENDOR'S FACIAL RECOGNITION  
8 SERVICE.

9 (7) AN AGENCY SEEKING TO USE A FACIAL RECOGNITION SERVICE  
10 FOR A PURPOSE NOT DISCLOSED IN THE AGENCY'S EXISTING  
11 ACCOUNTABILITY REPORT MUST:

12 (a) SEEK AND CONSIDER PUBLIC COMMENTS AND COMMUNITY  
13 INPUT CONCERNING THE PROPOSED NEW USE; AND

14 (b) IN RESPONSE TO SUCH COMMENTS AND INPUT, ADOPT AN  
15 UPDATED ACCOUNTABILITY REPORT AS DESCRIBED IN THIS SECTION.

16 (8) THE REQUIREMENTS OF SUBSECTIONS (2), (3), (4), (5), AND (7)  
17 OF THIS SECTION CONCERNING ACCOUNTABILITY REPORTS DO NOT APPLY  
18 TO AN AGENCY'S PROCUREMENT OR USE OF A FACIAL RECOGNITION  
19 SERVICE IF:

20 (a) THE FACIAL RECOGNITION SERVICE IS PART OF A GENERALLY  
21 AVAILABLE CONSUMER PRODUCT;

22 (b) THE FACIAL RECOGNITION SERVICE IS INCLUDED IN THE  
23 CONSUMER PRODUCT ONLY FOR PERSONAL OR HOUSEHOLD USE; AND

24 (c) THE AGENCY CERTIFIES PUBLICLY THAT THE FACIAL  
25 RECOGNITION SERVICE IS NOT THE REASON FOR THE AGENCY'S  
26 PROCUREMENT OR USE OF THE CONSUMER PRODUCT AND WILL NOT BE  
27 USED FOR GOVERNMENTAL PURPOSES.

1           **24-18-303. Use of facial recognition service - meaningful**  
2 **human review of certain decisions required.** AN AGENCY USING A  
3 FACIAL RECOGNITION SERVICE TO MAKE DECISIONS THAT PRODUCE LEGAL  
4 EFFECTS CONCERNING INDIVIDUALS OR SIMILARLY SIGNIFICANT EFFECTS  
5 CONCERNING INDIVIDUALS MUST ENSURE THAT THOSE DECISIONS ARE  
6 SUBJECT TO MEANINGFUL HUMAN REVIEW.

7           **24-18-304. Use of facial recognition service - testing required**  
8 **before use in certain contexts - testing capability required -**  
9 **exemption.** (1) EXCEPT AS DESCRIBED IN SUBSECTION (4) OF THIS  
10 SECTION, BEFORE DEPLOYING A FACIAL RECOGNITION SERVICE IN A  
11 CONTEXT IN WHICH IT WILL BE USED TO MAKE DECISIONS THAT PRODUCE  
12 LEGAL EFFECTS CONCERNING INDIVIDUALS OR SIMILARLY SIGNIFICANT  
13 EFFECTS CONCERNING INDIVIDUALS, AN AGENCY MUST TEST THE FACIAL  
14 RECOGNITION SERVICE IN OPERATIONAL CONDITIONS. AN AGENCY MUST  
15 TAKE REASONABLE STEPS TO ENSURE BEST QUALITY RESULTS BY  
16 FOLLOWING ALL GUIDANCE PROVIDED BY THE DEVELOPER OF THE FACIAL  
17 RECOGNITION SERVICE.

18           (2) (a) EXCEPT AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION,  
19 AN AGENCY THAT DEPLOYS A FACIAL RECOGNITION SERVICE SHALL  
20 REQUIRE THE FACIAL RECOGNITION SERVICE PROVIDER TO MAKE  
21 AVAILABLE AN APPLICATION PROGRAMMING INTERFACE OR OTHER  
22 TECHNICAL CAPABILITY, CHOSEN BY THE PROVIDER, TO ENABLE  
23 LEGITIMATE, INDEPENDENT, AND REASONABLE TESTS OF THE FACIAL  
24 RECOGNITION SERVICE FOR ACCURACY AND TO IDENTIFY UNFAIR  
25 PERFORMANCE DIFFERENCES ACROSS DISTINCT SUBPOPULATIONS,  
26 INCLUDING SUBPOPULATIONS THAT ARE DEFINED BY VISUALLY  
27 DETECTABLE CHARACTERISTICS SUCH AS:

1 (I) RACE, SKIN TONE, ETHNICITY, GENDER, AGE, OR DISABILITY  
2 STATUS; OR

3 (II) OTHER PROTECTED CHARACTERISTICS THAT ARE OBJECTIVELY  
4 DETERMINABLE OR SELF-IDENTIFIED BY THE INDIVIDUALS PORTRAYED IN  
5 THE TESTING DATASET.

6 (b) IF THE RESULTS OF INDEPENDENT TESTING IDENTIFY MATERIAL  
7 UNFAIR PERFORMANCE DIFFERENCES ACROSS SUBPOPULATIONS, THE  
8 PROVIDER MUST DEVELOP AND IMPLEMENT A PLAN TO MITIGATE THE  
9 IDENTIFIED PERFORMANCE DIFFERENCES WITHIN NINETY DAYS AFTER  
10 RECEIPT OF THE RESULTS.

11 (c) SUBSECTION (2)(a) OF THIS SECTION DOES NOT REQUIRE A  
12 PROVIDER TO DISCLOSE PROPRIETARY MATERIAL OR MAKE AVAILABLE AN  
13 APPLICATION PROGRAMMING INTERFACE OR OTHER TECHNICAL  
14 CAPABILITY IN A MANNER THAT WOULD INCREASE THE RISK OF CYBER  
15 ATTACKS. PROVIDERS BEAR THE BURDEN OF MINIMIZING THESE RISKS  
16 WHEN MAKING AN APPLICATION PROGRAMMING INTERFACE OR OTHER  
17 TECHNICAL CAPABILITY AVAILABLE FOR TESTING PURPOSES.

18 (3) NOTHING IN THIS SECTION REQUIRES AN AGENCY TO COLLECT  
19 OR PROVIDE DATA TO A FACIAL RECOGNITION SERVICE PROVIDER TO  
20 SATISFY THE REQUIREMENTS IN SUBSECTION (1) OF THIS SECTION.

21 (4) THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS  
22 SECTION DO NOT APPLY IF THE FACIAL RECOGNITION SERVICE PROVIDER IS  
23 A PARTICIPANT IN THE FACE RECOGNITION VENDOR TEST ONGOING PROJECT  
24 OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

25 **24-18-305. Use of facial recognition service - training of users**  
26 **required.** (1) AN AGENCY USING A FACIAL RECOGNITION SERVICE MUST  
27 CONDUCT PERIODIC TRAINING OF ALL INDIVIDUALS WHO OPERATE A

1 FACIAL RECOGNITION SERVICE OR WHO PROCESS PERSONAL DATA  
2 OBTAINED FROM THE USE OF A FACIAL RECOGNITION SERVICE.

3 (2) THE TRAINING REQUIRED BY SUBSECTION (1) OF THIS SECTION  
4 MUST INCLUDE COVERAGE OF:

5 (a) THE CAPABILITIES AND LIMITATIONS OF THE FACIAL  
6 RECOGNITION SERVICE;

7 (b) PROCEDURES TO INTERPRET AND ACT ON THE OUTPUT OF THE  
8 FACIAL RECOGNITION SERVICE; AND

9 (c) TO THE EXTENT APPLICABLE TO THE DEPLOYMENT CONTEXT,  
10 THE MEANINGFUL HUMAN REVIEW REQUIREMENT FOR DECISIONS THAT  
11 PRODUCE LEGAL EFFECTS CONCERNING INDIVIDUALS OR SIMILARLY  
12 SIGNIFICANT EFFECTS CONCERNING INDIVIDUALS.

13 **24-18-306. Use of facial recognition service - record keeping**  
14 **required.** AN AGENCY USING A FACIAL RECOGNITION SERVICE SHALL  
15 MAINTAIN RECORDS OF ITS USE OF THE SERVICE THAT ARE SUFFICIENT TO  
16 FACILITATE PUBLIC REPORTING AND AUDITING OF COMPLIANCE WITH THE  
17 AGENCY'S USE AND DATA MANAGEMENT POLICIES DEVELOPED AS PART OF  
18 THE AGENCY'S ACCOUNTABILITY REPORT PURSUANT TO SECTION  
19 24-18-302 (2)(d).

20 **24-18-307. Use of facial recognition service by law**  
21 **enforcement agencies - surveillance and tracking - prohibited uses -**  
22 **warrants.** (1) A LAW ENFORCEMENT AGENCY SHALL NOT USE A FACIAL  
23 RECOGNITION SERVICE TO ENGAGE IN ONGOING SURVEILLANCE, CONDUCT  
24 REAL-TIME OR NEAR REAL-TIME IDENTIFICATION, OR START PERSISTENT  
25 TRACKING UNLESS:

26 (a) THE LAW ENFORCEMENT AGENCY OBTAINS A WARRANT  
27 AUTHORIZING SUCH USE;

1 (b) EXIGENT CIRCUMSTANCES EXIST;     

2 (c) THE LAW ENFORCEMENT AGENCY HAS ESTABLISHED PROBABLE  
3 CAUSE FOR SUCH USE; OR

4 (d) THE LAW ENFORCEMENT AGENCY OBTAINS A COURT ORDER  
5 AUTHORIZING THE USE OF THE SERVICE FOR THE SOLE PURPOSE OF  
6 LOCATING OR IDENTIFYING A MISSING PERSON OR IDENTIFYING A  
7 DECEASED PERSON. A COURT MAY ISSUE AN EX PARTE ORDER UNDER THIS  
8 SUBSECTION (1)(d) IF A LAW ENFORCEMENT OFFICER CERTIFIES AND THE  
9 COURT FINDS THAT THE INFORMATION LIKELY TO BE OBTAINED IS  
10 RELEVANT TO LOCATING OR IDENTIFYING A MISSING PERSON OR  
11 IDENTIFYING A DECEASED PERSON.

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

20 (3) A LAW ENFORCEMENT AGENCY SHALL NOT USE A FACIAL  
21 RECOGNITION SERVICE TO CREATE A RECORD DEPICTING ANY INDIVIDUAL'S  
22 EXERCISE OF RIGHTS GUARANTEED BY THE FIRST AMENDMENT OF THE  
23 UNITED STATES CONSTITUTION AND BY SECTION 10 OF ARTICLE II OF THE  
24 STATE CONSTITUTION.

25 (4) A LAW ENFORCEMENT AGENCY SHALL NOT USE THE RESULTS  
26 OF A FACIAL RECOGNITION SERVICE AS THE SOLE BASIS TO ESTABLISH  
27 PROBABLE CAUSE IN A CRIMINAL INVESTIGATION. THE RESULTS OF A



1 FACIAL RECOGNITION SERVICE MAY BE USED IN CONJUNCTION WITH OTHER  
2 INFORMATION AND EVIDENCE LAWFULLY OBTAINED BY A LAW  
3 ENFORCEMENT OFFICER TO ESTABLISH PROBABLE CAUSE IN A CRIMINAL  
4 INVESTIGATION.

5  
6 (5) A LAW ENFORCEMENT AGENCY SHALL NOT SUBSTANTIVELY  
7 MANIPULATE AN IMAGE FOR USE IN A FACIAL RECOGNITION SERVICE IN A  
8 MANNER NOT CONSISTENT WITH THE FACIAL RECOGNITION SERVICE  
9 PROVIDER'S INTENDED USE AND TRAINING.

10 **24-18-308. Use of facial recognition service by agencies -**  
11 **disclosure to criminal defendant required - warrants.** (1) AN AGENCY  
12 SHALL DISCLOSE ITS USE OF A FACIAL RECOGNITION SERVICE ON A  
13 CRIMINAL DEFENDANT TO THAT DEFENDANT IN A TIMELY MANNER PRIOR  
14 TO TRIAL.

15 (2) IN JANUARY OF EACH YEAR, ANY JUDGE WHO HAS ISSUED OR  
16 EXTENDED A WARRANT FOR THE USE OF A FACIAL RECOGNITION SERVICE  
17 AS DESCRIBED IN SECTION 24-18-307 DURING THE PRECEDING YEAR, OR  
18 WHO HAS DENIED APPROVAL OF SUCH A WARRANT DURING THAT YEAR,  
19 SHALL REPORT TO THE STATE COURT ADMINISTRATOR:

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

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

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

25 (d) THE IDENTITY OF THE APPLYING INVESTIGATIVE OR LAW  
26 ENFORCEMENT OFFICER AND AGENCY MAKING THE APPLICATION AND THE  
27 PERSON AUTHORIZING THE APPLICATION; AND

1 (e) THE NATURE OF THE PUBLIC SPACES WHERE THE SURVEILLANCE  
2 WAS CONDUCTED.

3 (3) IN JANUARY OF EACH YEAR, ANY AGENCY THAT HAS APPLIED  
4 FOR A WARRANT OR AN EXTENSION OF A WARRANT FOR THE USE OF A  
5 FACIAL RECOGNITION SERVICE TO ENGAGE IN ANY SURVEILLANCE AS  
6 DESCRIBED IN SECTION 24-18-307 SHALL PROVIDE TO THE AGENCY'S  
7 REPORTING AUTHORITY A REPORT SUMMARIZING NONIDENTIFYING  
8 DEMOGRAPHIC DATA OF INDIVIDUALS NAMED IN WARRANT APPLICATIONS  
9 AS SUBJECTS OF SURVEILLANCE WITH THE USE OF A FACIAL RECOGNITION  
10 SERVICE.

11 **24-18-309. Use of facial recognition service - applicability and**  
12 **exemptions.** (1) THIS PART 3 DOES NOT APPLY TO:

13 (a) AN AGENCY THAT:

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

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

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

1           **22-32-150. Use of facial recognition service by schools**  
2 **prohibited - definition - repeal.** (1) THE USE OF A FACIAL RECOGNITION  
3 SERVICE BY A SCHOOL OR A CHARTER SCHOOL OF A SCHOOL DISTRICT IS  
4 PROHIBITED.

5           (2) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS  
6 THE MEANING SET FORTH IN SECTION 24-18-301 (5).

7           (3) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2025.

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

10           **22-30.5-529. Institute charter schools - use of facial**  
11 **recognition service prohibited - definition - repeal.** (1) THE USE OF A  
12 FACIAL RECOGNITION SERVICE BY AN INSTITUTE CHARTER SCHOOL IS  
13 PROHIBITED.

14           (2) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS  
15 THE MEANING SET FORTH IN SECTION 24-18-301 (5).

16           (3) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2025.

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

19           **18-5.5-102. Cybercrime.** (5) NOTWITHSTANDING ANY OTHER  
20 PROVISION OF THIS SECTION, AN INDIVIDUAL MAY AUTHORIZE AN AGENT  
21 TO ACCESS AND PROCESS, ON THAT INDIVIDUAL'S BEHALF, THAT  
22 INDIVIDUAL'S PERSONAL DATA OR OTHER INFORMATION HELD ON A  
23 COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM AND THAT IS  
24 OTHERWISE ACCESSIBLE TO THE INDIVIDUAL. AN AUTHORIZED AGENT  
25 REMAINS LIABLE FOR ANY UNAUTHORIZED ACTIVITY ON A SYSTEM UNDER  
26 APPLICABLE UNFAIR COMPETITION LAWS; THE FEDERAL "COMPUTER  
27 FRAUD AND ABUSE ACT", 18 U.S.C. SEC. 1030, ET SEQ., AS AMENDED;

1 AND OTHER PROVISIONS OF THIS SECTION.

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

4 **24-30-1404. Contracts.** (7) (h) The six-month deadline imposed  
5 by ~~paragraph (a) of this subsection (7)~~ SUBSECTION (7)(a) OF THIS  
6 SECTION does not apply to information technology projects that are  
7 overseen by the joint technology committee pursuant to part 17 of article  
8 3 of title 2. ~~C.R.S. For the purposes of this paragraph (h)~~ AS USED IN THIS  
9 SUBSECTION (7)(h), "information technology" has the ~~same~~ meaning as  
10 provided in ~~section 2-3-1701 (2), C.R.S.~~ SECTION 2-3-1701 (7).

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

13 **24-37-101. Definitions.** As used in this ~~article~~ ARTICLE 37, unless  
14 the context otherwise requires:

15 (5) "Information technology budget request" has the ~~same~~  
16 meaning as set forth in ~~section 2-3-1701 (2.5), C.R.S.~~ SECTION 2-3-1701  
17 (8).

18 **SECTION 10. Appropriation.** (1) For the 2021-22 state fiscal  
19 year, \$12,053 is appropriated to the legislative department. This  
20 appropriation is from the general fund. To implement this act, the  
21 department may use this appropriation as follows:

22 (a) \$1,887 for use by the general assembly; and

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

26 **SECTION 11.** Act subject to petition - effective date -  
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the  
2 general assembly; except that, if a referendum petition is filed pursuant  
3 to section 1 (3) of article V of the state constitution against this act or an  
4 item, section, or part of this act within such period, then the act, item,  
5 section, or part will not take effect unless approved by the people at the  
6 general election to be held in November 2022 and, in such case, will take  
7 effect on the date of the official declaration of the vote thereon by the  
8 governor.

9 (2) Section 4 of this act applies to any contract for the use of a  
10 facial recognition service, which contract is executed or extended on or  
11 after the applicable effective date of this act.