

CHAPTER 214

GOVERNMENT - STATE

HOUSE BILL 02-1146

BY REPRESENTATIVE(S) Smith, Garcia, Grossman, Harvey, Mace, Miller, Romanoff, Schultheis, Scott, Stafford, Stengel, Tapia, and Williams S.; also SENATOR(S) Gordon, Chlouber, and Tupa.

AN ACT

CONCERNING A UNIFORM STATE PRIVACY POLICY FOR THE PURPOSE OF STANDARDIZING THE TREATMENT OF PERSONALLY IDENTIFIABLE INFORMATION COLLECTED BY STATE GOVERNMENTAL ENTITIES.

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

SECTION 1. Article 72 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 5
CREATION OF PRIVACY POLICIES BY
GOVERNMENTAL ENTITIES**

24-72-501. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "GOVERNMENTAL ENTITY" MEANS THE STATE AND ANY STATE DEPARTMENT, AGENCY, OR INSTITUTION OF THE STATE.

(2) "PERSONALLY IDENTIFIABLE INFORMATION" MEANS INFORMATION ABOUT AN INDIVIDUAL COLLECTED BY A GOVERNMENTAL ENTITY THAT COULD REASONABLY BE USED TO IDENTIFY SUCH INDIVIDUAL, INCLUDING, BUT NOT LIMITED TO, FIRST AND LAST NAME, RESIDENCE OR OTHER PHYSICAL ADDRESS, ELECTRONIC MAIL ADDRESS, TELEPHONE NUMBER, BIRTHDATE, CREDIT CARD INFORMATION, AND SOCIAL SECURITY NUMBER. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, "PERSONALLY IDENTIFIABLE INFORMATION" SHALL NOT INCLUDE INFORMATION COLLECTED IN FURTHERANCE OF ANY REGULATORY, INVESTIGATIVE, OR CRIMINAL JUSTICE PURPOSE, INFORMATION COLLECTED IN FURTHERANCE OF LITIGATION IN WHICH THE STATE IS A

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PARTY, OR INFORMATION THAT IS REQUIRED TO BE COLLECTED PURSUANT TO ANY STATE OR FEDERAL STATUTE OR REGULATION.

24-72-502. Creation of a privacy policy for governmental entities. (1) EACH GOVERNMENTAL ENTITY OF THE STATE SHALL CREATE A PRIVACY POLICY FOR THE PURPOSE OF STANDARDIZING WITHIN SUCH GOVERNMENTAL ENTITY THE COLLECTION, STORAGE, TRANSFER, AND USE OF PERSONALLY IDENTIFIABLE INFORMATION BY SUCH GOVERNMENTAL ENTITY. THE POLICY OF EACH GOVERNMENTAL ENTITY SHALL ADDRESS, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(a) A GENERAL STATEMENT DECLARING SUPPORT FOR THE PROTECTION OF INDIVIDUAL PRIVACY;

(b) A PROVISION FOR THE MINIMIZATION OF THE COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION TO THE LEAST AMOUNT OF INFORMATION REQUIRED TO COMPLETE A PARTICULAR TRANSACTION;

(c) CLEAR NOTICE OF THE APPLICABILITY OF THE STATE OPEN RECORDS ACT PURSUANT TO PART 2 OF THIS ARTICLE;

(d) A METHOD FOR FEEDBACK FROM THE PUBLIC ON COMPLIANCE WITH THE PRIVACY POLICY; AND

(e) A STATEMENT THAT THE POLICY EXTENDS TO THE COLLECTION OF ALL PERSONALLY IDENTIFIABLE INFORMATION, REGARDLESS OF THE SOURCE OR MEDIUM.

(2) (a) ANY GOVERNMENTAL ENTITY THAT OPERATES A WORLD WIDE WEB SITE AS OF THE EFFECTIVE DATE OF THIS PART 5 SHALL ESTABLISH AND PUBLISH ON ITS WEB SITE A PRIVACY POLICY PURSUANT TO THIS PART 5 NO LATER THAN JULY 1, 2003.

(b) ANY GOVERNMENTAL ENTITY THAT DOES NOT OPERATE A WORLD WIDE WEB SITE AS OF THE EFFECTIVE DATE OF THIS PART 5 AND BEGINS OPERATION OF A WEB SITE BEFORE JULY 1, 2003, SHALL ESTABLISH AND PUBLISH ON ITS WEB SITE A PRIVACY POLICY PURSUANT TO THIS PART 5 BY JULY 1, 2003.

(c) IN NO EVENT SHALL A GOVERNMENTAL ENTITY BE PERMITTED TO OPERATE A WORLD WIDE WEB SITE AFTER JULY 1, 2003, WITHOUT FIRST ESTABLISHING A PRIVACY POLICY PURSUANT TO THIS PART 5. THE PRIVACY POLICY SHALL BE PUBLISHED ON SUCH GOVERNMENTAL ENTITY'S WEB SITE AS OF THE FIRST DAY OF OPERATION OF SUCH WEB SITE.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION BASED ON ALLEGED VIOLATIONS OF THIS SECTION.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition

is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 30, 2002