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SENATE BILL 26-011

BY SENATOR(S) Frizell and Roberts, Carson, Catlin, Liston, Pelton B., Pelton R., Rich, Amabile, Ball, Bridges, Cutter, Exum, Gonzales J., Jodeh, Kipp, Kirkmeyer, Kolker, Lindstedt, Marchman, Mullica, Simpson, Snyder, Wallace, Weissman, Coleman;
also REPRESENTATIVE(S) Boesenecker and Caldwell, Bacon, Clifford, Duran, Espenosa, Froelich, Hamrick, Lindsay, Marshall, Nguyen, Rutinel, Woodrow, McCluskie.

CONCERNING SEARCH WARRANT REQUIREMENTS FOR OPERATORS OF
CERTAIN ELECTRONIC PLATFORMS.

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

SECTION 1. In Colorado Revised Statutes, **add** 16-3-313 as follows:

16-3-313. Search warrants provided to covered platforms - process required - enforcement - severability - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) (I) "COVERED PLATFORM" MEANS A PUBLIC OR SEMIPUBLIC WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION THAT:

(A) HAS AT LEAST ONE MILLION DISCRETE MONTHLY USERS;

(B) ALLOWS A USER TO CONSTRUCT A PUBLIC OR SEMIPUBLIC PROFILE FOR THE PURPOSE OF USING THE WEBSITE, SERVICE, OR APPLICATION; AND

(C) ALLOWS A USER TO CREATE OR POST CONTENT THAT IS VIEWABLE BY OTHER USERS, INCLUDING ON MESSAGE BOARDS, IN CHAT ROOMS, OR THROUGH LANDING PAGES OR MAIN FEEDS THAT PRESENT A USER WITH CONTENT GENERATED BY OTHER USERS OR BY ARTIFICIAL INTELLIGENCE. A WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION SHALL NOT BE DEEMED TO SATISFY THE CRITERION DESCRIBED IN THIS SUBSECTION (1)(a)(I)(C) SOLELY BECAUSE THE WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION PROVIDES THE ABILITY TO POST AND VIEW COMMENTS FOR THE PURPOSE OF RATING OR REVIEWING PRODUCTS OR SERVICES OR, IN THE CASE OF A WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION THAT PREDOMINANTLY OR EXCLUSIVELY PROVIDES NEWS, SPORTS, ENTERTAINMENT, OR E-COMMERCE CONTENT THAT IS PRESELECTED BY THE PROVIDER AND NOT USER-GENERATED, SOLELY BECAUSE THE WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION HAS CHAT, COMMENT, OR INTERACTIVE FUNCTIONALITY THAT IS DIRECTLY RELATED TO, OR DEPENDENT UPON, THE PROVISION OF THAT CONTENT.

(II) "COVERED PLATFORM" INCLUDES FEATURES OR SERVICES OF A COVERED PLATFORM.

(III) "COVERED PLATFORM" DOES NOT INCLUDE A SERVICE OR APPLICATION THAT:

(A) IS USED TO FACILITATE COMMUNICATION WITHIN A BUSINESS OR ENTERPRISE AMONG EMPLOYEES OR AFFILIATES OF THE BUSINESS OR ENTERPRISE, SO LONG AS ACCESS TO THE SERVICE OR APPLICATION IS RESTRICTED TO EMPLOYEES OR AFFILIATES OF THE BUSINESS OR ENTERPRISE USING THE SERVICE OR APPLICATION; OR

(B) HAS THE EXCLUSIVE PURPOSES OF OFFERING THE COMMERCIAL SALE OF GOODS AND FACILITATING COMMERCIAL TRANSACTIONS BETWEEN BUYERS AND SELLERS, SO LONG AS THE SERVICE OR APPLICATION IS NOT A FEATURE OR SERVICE OF, OR OTHERWISE ASSOCIATED OR AFFILIATED WITH, A COVERED PLATFORM.

(b) "OPERATOR" MEANS A PERSON, BUSINESS, OR OTHER LEGAL ENTITY THAT OPERATES OR PROVIDES A COVERED PLATFORM.

(c) "SEARCH WARRANT" INCLUDES A COURT ORDER FOR THE PRODUCTION OF RECORDS, AS DESCRIBED IN SECTION 16-3-301.1.

(d) "USER" MEANS A USER OF A COVERED PLATFORM WHO RESIDES IN COLORADO AND IS NOT ACTING AS AN OPERATOR, OR AN AGENT OR AFFILIATE OF AN OPERATOR, OF THE PLATFORM OR ANY PORTION OF THE PLATFORM.

(2) AN OPERATOR SHALL ENSURE THAT EACH OF ITS COVERED PLATFORMS PROVIDES A STREAMLINED PROCESS TO ALLOW COLORADO LAW ENFORCEMENT AGENCIES TO CONTACT THE COVERED PLATFORM. THE PROCESS MUST, AT A MINIMUM:

(a) BE AVAILABLE TO COLORADO LAW ENFORCEMENT AGENCIES AT ALL TIMES; AND

(b) MAKE AVAILABLE AT ALL TIMES A STAFFED HOTLINE FOR COLORADO LAW ENFORCEMENT AGENCIES FOR THE PURPOSES OF:

(I) RECEIVING AND RESPONDING TO QUESTIONS ABOUT SEARCH WARRANTS;

(II) ACKNOWLEDGING THE RECEIPT OF A SEARCH WARRANT WITHIN EIGHT HOURS AFTER RECEIPT; AND

(III) PROVIDING STATUS UPDATES ON SEARCH WARRANT COMPLIANCE TO A REQUESTING COLORADO LAW ENFORCEMENT AGENCY.

(3) AN OPERATOR SHALL PROMINENTLY POST CONTACT INFORMATION ON THE HOME PAGE OF EACH OF ITS COVERED PLATFORMS TO ALLOW A COLORADO LAW ENFORCEMENT AGENCY TO CONTACT THE

OPERATOR AND INITIATE THE PROCESS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(4) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, OR ANY OTHER LAW, INCLUDING SECTION 32 OF ARTICLE II OF THE STATE CONSTITUTION; THE "COLORADO PRIVACY ACT", PART 13 OF ARTICLE 1 OF TITLE 6; SECTION 16-3-301 (4); AND THE "REPRODUCTIVE HEALTH EQUITY ACT", PART 4 OF ARTICLE 6 OF TITLE 25, AN OPERATOR SHALL COMPLY WITH A SEARCH WARRANT WITHIN SEVENTY-TWO HOURS AFTER RECEIVING THE SEARCH WARRANT IF ALL OF THE FOLLOWING APPLY:

(a) THE SEARCH WARRANT IS PROVIDED TO THE OPERATOR OR THE OPERATOR'S COVERED PLATFORM BY A COLORADO LAW ENFORCEMENT AGENCY;

(b) THE SUBJECT OF THE SEARCH WARRANT IS INFORMATION ASSOCIATED WITH A USER'S ACCOUNT ON A COVERED PLATFORM OPERATED BY THE OPERATOR; AND

(c) THE INFORMATION IS CONTROLLED BY A USER OR OPERATOR OF THE COVERED PLATFORM.

(5) A COURT MAY REASONABLY EXTEND THE TIME REQUIRED TO COMPLY WITH A SEARCH WARRANT PROVIDED PURSUANT TO SUBSECTION (4) OF THIS SECTION IF THE COURT MAKES A WRITTEN FINDING THAT THE OPERATOR OR COVERED PLATFORM HAS SHOWN GOOD CAUSE FOR THE EXTENSION AND THAT AN EXTENSION WOULD NOT CAUSE AN ADVERSE RESULT, AS DEFINED IN 18 U.S.C. SEC. 2705 (a)(2).

(6) THE FAILURE OF AN OPERATOR OR COVERED PLATFORM TO COMPLY WITH THE REQUIREMENTS OF A COURT-ORDERED SEARCH WARRANT AS DESCRIBED IN THIS SECTION SUPPORTS A FINDING OF CONTEMPT OF COURT, AS DESCRIBED IN SECTION 16-3-301.1 (6)(d).

(7) ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, IF IT APPEARS TO THE ATTORNEY GENERAL OR TO A DISTRICT ATTORNEY WITH JURISDICTION, UPON COMPLAINT OR OTHERWISE, THAT A PERSON WITHIN OR OUTSIDE THE STATE HAS VIOLATED THIS SECTION, IN ADDITION TO SEEKING ANY OTHER RELIEF AVAILABLE UNDER THIS PART 3, THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY BRING AN ACTION OR PROCEEDING TO:

(a) ENJOIN THE VIOLATION;

(b) OBTAIN RESTITUTION OF ANY MONEY OR PROPERTY OBTAINED DIRECTLY OR INDIRECTLY AS A RESULT OF THE VIOLATION;

(c) OBTAIN DISGORGEMENT OF ANY PROFITS OR GAINS OBTAINED DIRECTLY OR INDIRECTLY AS A RESULT OF THE VIOLATION;

(d) OBTAIN DAMAGES CAUSED DIRECTLY OR INDIRECTLY BY THE VIOLATION;

(e) OBTAIN CIVIL PENALTIES OF UP TO FIVE THOUSAND DOLLARS PER VIOLATION; AND

(f) OBTAIN SUCH OTHER RELIEF AS THE COURT MAY DEEM PROPER, INCLUDING PRELIMINARY RELIEF.

(8) IF ANY PROVISION OF THIS SECTION OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS SECTION ARE SEVERABLE.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to search warrants provided on or after the applicable effective date of this act.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO