

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0974.01 Josh Schultz x5486

SENATE BILL 26-189

SENATE SPONSORSHIP

Rodriguez and Coleman, Baisley

HOUSE SPONSORSHIP

Duran and Bacon, Titone

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING THE USE OF AUTOMATED DECISION-MAKING
102 TECHNOLOGY IN CONSEQUENTIAL DECISIONS.

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>.)

In 2024, the general assembly enacted Senate Bill 24-205, which created consumer protections in interactions with artificial intelligence systems. The bill repeals and reenacts those provisions with new requirements regarding the use of automated decision-making technology in consequential decisions.

The bill defines an "automated decision-making technology"

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

(ADMT) as a technology that processes personal data and uses computation to generate output, including predictions, recommendations, classifications, rankings, scores, or other information that is used to make, guide, or assist a decision, judgment, or determination concerning an individual. A "consequential decision" is a decision that relates to an individual's access to, eligibility for, or compensation related to education, employment, housing, financial or lending services, insurance, health-care services, or essential government services.

The bill requires the developer of an ADMT (developer) that is used to materially influence a consequential decision (covered ADMT), starting January 1, 2027, to provide a deployer of a covered ADMT (deployer) with technical documentation describing the covered ADMT's intended uses, categories of training data, known limitations, and instructions for appropriate use and human review. Developers must notify deployers of material updates or modifications to the covered ADMT. Both developers and deployers are required to retain records necessary to demonstrate compliance with the bill for at least 3 years.

The bill establishes consumer notice requirements, mandating that deployers provide clear and conspicuous notice to consumers at the point of interaction with a covered ADMT. A deployer is required to provide a consumer with a plain language description of a covered ADMT's role within 30 days after the covered ADMT makes a consequential decision that results in an adverse outcome for the consumer. The attorney general must adopt rules to clarify these post-adverse outcome disclosure requirements by January 1, 2027.

Consumers have the right to request personal data and correction of factually incorrect personal data used by a covered ADMT. The bill also grants consumers the right to request meaningful human review and reconsideration following a covered ADMT making a consequential decision resulting in an adverse outcome.

The attorney general is directed to enforce the bill through the "Colorado Consumer Protection Act", and a violation of the bill is deemed a deceptive trade practice. Before initiating an action, the attorney general must provide the developer or deployer with a 60-day notice and opportunity to cure the alleged violation, if a cure is deemed possible. The bill does not create a new private right of action but establishes how fault is allocated between developers and deployers in civil actions alleging unlawful discrimination under existing law.

Specified entities are exempted from the requirements of the bill to the extent the entities comply with other legal obligations.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**

1 **with amendments**, part 17 of article 1 of title 6 as follows:

2 PART 17

3 AUTOMATED DECISION-MAKING TECHNOLOGY

4 IN CONSEQUENTIAL DECISIONS

5 **6-1-1701. Definitions.**

6 AS USED IN THIS PART 17, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (1) "ADVERSE OUTCOME" MEANS:

9 (a) A DECISION THAT DENIES, TERMINATES, REVOKES, OR
10 MATERIALLY REDUCES OR RESTRICTS A CONSUMER'S ACCESS TO,
11 ELIGIBILITY FOR, SELECTION FOR, COMPENSATION FOR, OR THE PROVISION
12 OF AN OPPORTUNITY OR SERVICE; OR

13 (b) A DECISION THAT RESULTS IN MATERIALLY LESS FAVORABLE
14 DIFFERENTIATED PRICE, COST, COMPENSATION, OR OTHER MATERIAL
15 TERMS THAT ARE REASONABLY LIKELY TO MATERIALLY LIMIT, DELAY, OR
16 EFFECTIVELY DENY, OR OTHERWISE FUNDAMENTALLY ALTER, A
17 CONSUMER'S ACCESS TO, ELIGIBILITY FOR, SELECTION FOR, COMPENSATION
18 FOR, OR THE PROVISION OF AN OPPORTUNITY OR SERVICE COMPARED TO
19 TERMS OFFERED TO SIMILARLY SITUATED CONSUMERS. IF A DECISION
20 OUTCOME IMPOSES MATERIALLY LESS FAVORABLE DIFFERENTIATED
21 PRICING OR TERMS, THE DECISION OUTCOME MATERIALLY INFLUENCES
22 PRICE, COST SHARING, COMPENSATION, OR MATERIAL TERMS.

23 (2) (a) "AUTOMATED DECISION-MAKING TECHNOLOGY" OR
24 "ADMT" MEANS A TECHNOLOGY THAT PROCESSES PERSONAL DATA AND
25 USES COMPUTATION TO GENERATE OUTPUT, INCLUDING PREDICTIONS,
26 RECOMMENDATIONS, CLASSIFICATIONS, RANKINGS, SCORES, OR OTHER
27 INFORMATION THAT IS USED TO MAKE, GUIDE, OR ASSIST A DECISION,

1 JUDGMENT, OR DETERMINATION CONCERNING AN INDIVIDUAL.

2 (b) "AUTOMATED DECISION-MAKING TECHNOLOGY" OR "ADMT"

3 DOES NOT INCLUDE:

4 (I) THE FOLLOWING TECHNOLOGIES:

5 (A) ANTI-MALWARE;

6 (B) ANTI-VIRUS;

7 (C) CALCULATORS;

8 (D) DATABASES;

9 (E) DATA STORAGE;

10 (F) FIREWALLS;

11 (G) INTERNET DOMAIN REGISTRATION;

12 (H) INTERNET WEBSITE LOADING;

13 (I) NETWORKING;

14 (J) SPAM- AND ROBOCALL-FILTERING;

15 (K) SPELL-CHECKING;

16 (L) SPREADSHEETS THAT REQUIRE HUMAN ANALYSIS AND DO NOT

17 USE MACHINE LEARNING, FOUNDATION MODELS, OR LARGE LANGUAGE

18 MODELS;

19 (M) WEB CACHING; OR

20 (N) WEB HOSTING;

21 (II) A TOOL USED BY AN INDIVIDUAL SOLELY TO SUMMARIZE,

22 ORGANIZE, TRANSLATE, DRAFT, ROUTE, OR PRESENT INFORMATION FOR

23 HUMAN REVIEW OF ADMINISTRATIVE PROCESSING; OR

24 (III) TECHNOLOGY THAT COMMUNICATES WITH CONSUMERS IN

25 NATURAL LANGUAGE OR OTHER MEANS READILY UNDERSTOOD BY AN

26 AVERAGE CONSUMER FOR THE PURPOSE OF PROVIDING CONSUMERS WITH

27 INFORMATION, MAKING REFERRALS OR RECOMMENDATIONS, ANSWERING

1 QUESTIONS, OR GENERATING OTHER CONTENT, IF:

2 (A) THE TECHNOLOGY IS NOT CONTRACTED, ADVERTISED,
3 MARKETED, CONFIGURED, OR INTENDED BY A PERSON TO BE USED IN A
4 CONSEQUENTIAL DECISION; AND

5 (B) THE TECHNOLOGY IS SUBJECT TO AN ACCEPTABLE USE POLICY
6 THAT PROHIBITS GENERATED CONTENT TO BE USED IN A CONSEQUENTIAL
7 DECISION.

8 (3) (a) "CONSEQUENTIAL DECISION" MEANS:

9 (I) A DECISION, DETERMINATION, OR ACTION MADE ABOUT A
10 CONSUMER THAT RELATES TO THE PROVISION OF OR A CONSUMER'S ACCESS
11 TO, ELIGIBILITY FOR, SELECTION FOR, OR COMPENSATION FOR A COVERED
12 DOMAIN; OR

13 (II) A DECISION, DETERMINATION, OR ACTION ABOUT A CONSUMER
14 THAT RELATES TO A DIFFERENTIATED PRICE, COST SHARING,
15 COMPENSATION, OR OTHER MATERIAL TERMS IN A MANNER THAT IS
16 REASONABLY LIKELY TO MATERIALLY LIMIT, DELAY, EFFECTIVELY DENY,
17 OR OTHERWISE FUNDAMENTALLY ALTER THE CONSUMER'S ACCESS,
18 ELIGIBILITY, OR OPPORTUNITY FOR A COVERED DOMAIN.

19 (b) "CONSEQUENTIAL DECISION" DOES NOT INCLUDE:

20 (I) LOW-STAKES OR ROUTINE DECISIONS, ACTIONS, AND BUSINESS
21 PROCESSES THAT DO NOT MATERIALLY INFLUENCE ELIGIBILITY FOR,
22 SELECTION FOR, DENIAL OF, COMPENSATION FOR, PRICING OF, OR ACCESS
23 TO AN OPPORTUNITY OR SERVICE FOR A COVERED DOMAIN, INCLUDING
24 ROUTINE SCHEDULING, CLASSROOM PERSONALIZATION, ADMINISTRATIVE
25 ROUTING, CUSTOMER SERVICE TRIAGE, COMMUNICATION OF DECISIONS, OR
26 WORKFLOW MANAGEMENT;

27 (II) ADVERTISING, MARKETING, DIFFERENTIATED PRODUCT

1 RECOMMENDATIONS, SEARCH, OR CONTENT MODERATION;

2 (III) SPREADSHEETS THAT REQUIRE MANUAL HUMAN ANALYSIS
3 AND DO NOT USE MACHINE LEARNING, FOUNDATION MODELS, OR LARGE
4 LANGUAGE MODELS;

5 (IV) ACTIONS IN WHICH AN ADMT IS USED TO SUMMARIZE,
6 ORGANIZE, OR PRESENT INFORMATION FOR HUMAN REVIEW AND THE
7 SYSTEM DOES NOT PRODUCE A SCORE, RANKING, RECOMMENDATION,
8 CLASSIFICATION, PREDICTION, OR OTHER INFERENCE THAT MATERIALLY
9 INFLUENCES AN OUTCOME OR A DECISION;

10 (V) NARROW PROCEDURAL TASKS OR DATA-PROCESSING
11 FUNCTIONS THAT DO NOT GENERATE A PREDICTION OR INFERENCE ABOUT
12 A CONSUMER OR MATERIALLY INFLUENCE A CONSEQUENTIAL DECISION OR
13 CONSEQUENTIAL DECISION PROCESS;

14 (VI) ACTIVITIES RELATING TO TECHNOLOGIES USED FOR
15 CYBERSECURITY, SPAM- AND ROBO-CALL FILTERING, SYSTEM RELIABILITY,
16 AND ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING
17 CONTROLS;

18 (VII) ACTIVITIES RELATING TO TECHNOLOGIES USED FOR
19 ECONOMIC SANCTIONS COMPLIANCE, INCLUDING UNDER THE FEDERAL
20 "BANK SECRECY ACT", 12 U.S.C. SEC. 1951 ET SEQ.; THE FEDERAL "USA
21 PATRIOT ACT", PUB.L. 107-56; THE FEDERAL TRADE COMMISSION'S RED
22 FLAGS RULE, 16 CFR 681, AS AMENDED; AND SANCTIONS PROGRAMS
23 ADMINISTERED BY THE UNITED STATES DEPARTMENT OF THE TREASURY,
24 EXCLUDING FACIAL RECOGNITION UNLESS THE SOLE PURPOSE OF WHICH IS
25 TO CONFIRM AN INDIVIDUAL'S IDENTITY;

26 (VIII) ACTIVITIES RELATING TO TECHNOLOGIES USED FOR FRAUD
27 PREVENTION, INCLUDING IDENTITY VERIFICATION, CONSUMER

1 IDENTIFICATION, MONITORING, AND REPORTING CONTROLS REQUIRED
2 UNDER STATE OR FEDERAL LAW; OR

3 (IX) ROUTINE ACADEMIC ADMINISTRATION AND STUDENT SUPPORT
4 PROCESSES THAT DO NOT MATERIALLY INFLUENCE A CONSEQUENTIAL
5 DECISION.

6 (4) (a) "CONSUMER" HAS THE MEANING SET FORTH IN SECTION
7 6-1-1303 (6)(a).

8 (b) "CONSUMER" INCLUDES AN EMPLOYEE, A JOB APPLICANT WHO
9 IS A COLORADO RESIDENT, AND ANY INDIVIDUAL WHOSE ACCESS TO,
10 ELIGIBILITY FOR, OR OPPORTUNITY IN COLORADO IS EVALUATED IN A
11 CONSEQUENTIAL DECISION BY A PERSON DOING BUSINESS IN COLORADO.

12 (5) "COVERED ADMT" MEANS AUTOMATED DECISION-MAKING
13 TECHNOLOGY THAT IS USED TO MATERIALLY INFLUENCE A
14 CONSEQUENTIAL DECISION.

15 (6) "COVERED DOMAIN" MEANS:

16 (a) AN EDUCATION ENROLLMENT OR AN EDUCATION OPPORTUNITY;

17 (b) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY THAT
18 CREATES OR MAY CREATE AN EMPLOYER-EMPLOYEE RELATIONSHIP;

19 (c) THE LEASE OR PURCHASE OF RESIDENTIAL REAL ESTATE IN
20 COLORADO;

21 (d) A FINANCIAL OR LENDING SERVICE;

22 (e) INSURANCE, INCLUDING UNDERWRITING, PRICING, COVERAGE,
23 CLAIMS ADJUDICATION, OR OTHER DETERMINATIONS THAT MATERIALLY
24 AFFECT ACCESS TO BENEFITS;

25 (f) HEALTH-CARE SERVICES; OR

26 (g) ESSENTIAL GOVERNMENT SERVICES AND PUBLIC BENEFITS,
27 INCLUDING ELIGIBILITY AND RENEWAL DETERMINATIONS.

1 (7) "DEPLOYER" MEANS A PERSON DOING BUSINESS IN COLORADO
2 THAT DEPLOYS A COVERED ADMT.

3 (8) (a) "DEVELOPER" MEANS A PERSON DOING BUSINESS IN
4 COLORADO THAT:

5 (I) DEVELOPS, OFFERS, SELLS, LEASES, LICENSES, OR OTHERWISE
6 MAKES COMMERCIALY AVAILABLE A COVERED ADMT;

7 (II) DEVELOPS A COMPONENT THAT IS DESIGNED, MARKETED,
8 INTENDED, DOCUMENTED, ADVERTISED, CONFIGURED, OR CONTRACTED TO
9 BE USED AS PART OF A COVERED ADMT; OR

10 (III) INTENTIONALLY AND SUBSTANTIALLY MODIFIES AN ADMT
11 SUCH THAT IT BECOMES A COVERED ADMT.

12 (b) "DEVELOPER" DOES NOT INCLUDE A PERSON THAT:

13 (I) DEVELOPS AND USES AN ADMT:

14 (A) SOLELY FOR RESEARCH PURPOSES AND THE ADMT IS NOT
15 USED IN A CONSEQUENTIAL DECISION IN THE RESEARCH; OR

16 (B) FOR INTERNAL PURPOSES, SUCH AS USE AND DEVELOPMENT
17 ACTIVITIES BY AFFILIATES AND COMMERCIAL SUPPORT FUNCTIONS, AND
18 THAT DOES NOT MAKE THE SYSTEM AVAILABLE TO ANOTHER PERSON FOR
19 USE IN A CONSEQUENTIAL DECISION;

20 (II) IS A PRECEDING DEVELOPER THAT MAKES AN ADMT
21 COMMERCIALY AVAILABLE AND AN UNAFFILIATED PERSON MODIFIES THE
22 COVERED ADMT IN A MANNER THAT CHANGES THE SYSTEM'S INTENDED,
23 DOCUMENTED, MARKETED, ADVERTISED, CONFIGURED, OR CONTRACTED
24 USE; OR

25 (III) HAS DESIGNED, MARKETED, INTENDED, DOCUMENTED,
26 ADVERTISED, CONFIGURED, OR CONTRACTED A COMPONENT THAT IS USED
27 AS PART OF AN ADMT, BUT THE COMPONENT IS INTEGRATED INTO A

1 COVERED ADMT WITHOUT THE ACTUAL KNOWLEDGE OF THE PERSON.

2 (9) "EMPLOYEE" HAS THE MEANING SET FORTH IN SECTION 8-4-101
3 (5).

4 (10) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION
5 8-4-101 (6).

6 (11) "FERPA" MEANS THE FEDERAL "FAMILY EDUCATIONAL
7 RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g ET SEQ., AND
8 ITS IMPLEMENTING REGULATIONS.

9 (12) "INTENTIONAL AND SUBSTANTIAL MODIFICATION" MEANS A
10 DELIBERATE CHANGE MADE TO AN ADMT THAT RESULTS IN A MATERIAL
11 CHANGE TO THE SYSTEM'S INTENDED, DOCUMENTED, ADVERTISED,
12 CONFIGURED, OR CONTRACTED USE.

13 (13) (a) "MATERIALLY INFLUENCE" MEANS:

14 (I) AN ADMT OUTPUT IS A NON-DE MINIMIS FACTOR THAT IS USED
15 IN MAKING A CONSEQUENTIAL DECISION; AND

16 (II) AN ADMT OUTPUT AFFECTS THE OUTCOME OF A
17 CONSEQUENTIAL DECISION, INCLUDING BY CONSTRAINING, RANKING,
18 SCORING, RECOMMENDING, CLASSIFYING, OR OTHERWISE MEANINGFULLY
19 ALTERING HOW A CONSEQUENTIAL DECISION IS MADE.

20 (b) "MATERIALLY INFLUENCE" DOES NOT INCLUDE INCIDENTAL,
21 TRIVIAL, OR CLERICAL USES.

22 (14) (a) "MATERIAL UPDATE" MEANS AN UPDATE, PATCH, RELEASE,
23 REVISION, OR NEW VERSION OF A COVERED ADMT, INCLUDING
24 ASSOCIATED SOFTWARE, MODEL PARAMETERS, DEFAULT SETTINGS, OR
25 DOCUMENTATION, THAT A DEVELOPER KNOWS OR REASONABLY SHOULD
26 KNOW IS LIKELY TO MATERIALLY AFFECT:

27 (I) THE COVERED ADMT'S OUTPUTS OR PERFORMANCE IN A

1 MANNER RELEVANT TO ITS INTENDED USE; OR

2 (II) THE DEVELOPER'S STATED INTENDED USE FOR THE COVERED
3 ADMT.

4 (b) "MATERIAL UPDATE" DOES NOT INCLUDE ROUTINE
5 MAINTENANCE, COSMETIC CHANGES, OR BUG FIXES THAT DO NOT
6 MATERIALLY INFLUENCE:

7 (I) A COVERED ADMT'S OUTPUTS OR PERFORMANCE IN A MANNER
8 RELEVANT TO ITS INTENDED USE; OR

9 (II) A DEVELOPER'S STATED INTENDED USE FOR THE COVERED
10 ADMT.

11 (15) "MEANINGFUL HUMAN REVIEW" MEANS REVIEW BY A
12 INDIVIDUAL DESIGNATED BY THE DEPLOYER WHO HAS AUTHORITY TO
13 APPROVE, MODIFY, OR OVERRIDE A CONSEQUENTIAL DECISION AND WHO:

14 (a) CONSIDERS RELEVANT, AVAILABLE PRIMARY EVIDENCE;

15 (b) IS TRAINED TO CONDUCT THE REVIEW;

16 (c) DOES NOT DEFAULT TO THE SYSTEM OUTPUT; AND

17 (d) HAS ACCESS TO SUFFICIENT INFORMATION TO UNDERSTAND:

18 (I) THE OUTPUT'S:

19 (A) INTENDED USE;

20 (B) MATERIAL LIMITATIONS; AND

21 (C) CATEGORIES OF INPUTS; AND

22 (II) THE PRINCIPAL FACTORS USED TO GENERATE THE OUTPUT,
23 WITHOUT REQUIRING DISCLOSURE OF PROPRIETARY SOURCE CODE, MODEL
24 WEIGHTS, OR OTHER TRADE SECRETS.

25 (16) "PERSONAL DATA" HAS THE MEANING SET FORTH IN SECTION
26 6-1-1303 (17).

27 (17) "TRADE SECRET" HAS THE MEANING SET FORTH IN SECTION

1 7-74-102 (4).

2 **6-1-1702. Developer responsibilities - documentation.**

3 (1) ON AND AFTER JANUARY 1, 2027, A DEVELOPER SHALL MAKE
4 AVAILABLE TO EACH DEPLOYER OF A COVERED ADMT DEVELOPED BY THE
5 DEVELOPER, IN A FORM AND MANNER THAT IS REASONABLY
6 UNDERSTANDABLE TO A DEPLOYER AND THAT PROTECTS TRADE SECRETS
7 OR INFORMATION PROTECTED FROM DISCLOSURE BY STATE OR FEDERAL
8 LAW:

9 (a) A GENERAL STATEMENT DESCRIBING THE INTENDED USES AND
10 KNOWN HARMFUL OR INAPPROPRIATE USES OF THE COVERED ADMT;

11 (b) A DESCRIPTION OF THE CATEGORIES OF DATA, INCLUDING
12 PERSONAL DATA, USED TO TRAIN THE COVERED ADMT, TO THE EXTENT
13 KNOWN;

14 (c) KNOWN LIMITATIONS OF THE COVERED ADMT, INCLUDING
15 KNOWN RISKS AND CIRCUMSTANCES IN WHICH THE COVERED ADMT
16 SHOULD NOT BE USED;

17 (d) INSTRUCTIONS FOR THE DEPLOYER'S APPROPRIATE USE,
18 MONITORING, AND MEANINGFUL HUMAN REVIEW, WHERE APPLICABLE;

19 (e) INFORMATION REASONABLY NECESSARY FOR THE DEPLOYER TO
20 COMPLY WITH SECTION 6-1-1704. IF INFORMATION IS WITHHELD, THE
21 DEVELOPER SHALL NOTIFY THE DEPLOYER.

22 (2) (a) A DEVELOPER SHALL PROVIDE TO EACH DEPLOYER OF A
23 COVERED ADMT DEVELOPED BY THE DEVELOPER A NOTICE OF MATERIAL
24 UPDATES, INTENTIONAL AND SUBSTANTIAL MODIFICATIONS, AND CHANGES
25 TO THE INTENDED USE OF, LIMITATIONS FOR, OR RISK MITIGATION FOR THE
26 COVERED ADMT WITHIN A REASONABLE TIME.

27 (b) A DEVELOPER MAY USE PUBLIC RELEASE NOTES CONTAINING

1 THE INFORMATION REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION TO
2 COMPLY WITH THIS SUBSECTION (2) IF THE DEVELOPER PROVIDES DIRECT
3 NOTICE OF THE PUBLIC RELEASE TO EACH DEPLOYER OF THE COVERED
4 ADMT.

5 (3) A DEVELOPER IS SUBJECT TO THE DISCLOSURE REQUIREMENTS
6 DESCRIBED IN SUBSECTIONS (1) AND (2) OF THIS SECTION ONLY FOR A
7 DEPLOYER'S USE OF A COVERED ADMT WHERE THE ADMT WAS
8 MARKETED, ADVERTISED, CONFIGURED, CONTRACTED, SOLD, OR LICENSED
9 TO BE USED TO MATERIALLY INFLUENCE A CONSEQUENTIAL DECISION.

10 (4) A DEVELOPER SHALL RETAIN, FOR NOT LESS THAN THREE
11 YEARS AFTER THE CREATION OF A RECORD REQUIRED OR CREATED UNDER
12 THIS SECTION OR FOR A LONGER PERIOD IF REQUIRED BY APPLICABLE
13 STATE OR FEDERAL LAW, RECORDS REASONABLY NECESSARY TO
14 DEMONSTRATE COMPLIANCE WITH THIS SECTION. RECORDS INCLUDE
15 SYSTEM VERSION IDENTIFIERS, CHANGELOGS, AND DOCUMENTATION AND
16 NOTICES OF MATERIAL UPDATES PROVIDED TO DEPLOYERS PURSUANT TO
17 SUBSECTION (2) OF THIS SECTION.

18 (5) THIS SECTION APPLIES WHEN A DEVELOPER CREATES A
19 COVERED ADMT THAT IS INTENDED, DOCUMENTED, MARKETED,
20 ADVERTISED, CONFIGURED, OR CONTRACTED TO BE USED TO MAKE
21 CONSEQUENTIAL DECISIONS OR WHEN THE DEVELOPER BECOMES AWARE
22 THAT THE COVERED ADMT IS BEING USED TO MAKE CONSEQUENTIAL
23 DECISIONS IN A MANNER CONSISTENT WITH THE INTENDED AND
24 CONTRACTED USES.

25 **6-1-1703. Deployer record keeping.**

26 A DEPLOYER SHALL RETAIN, FOR NOT LESS THAN THREE YEARS
27 AFTER THE DATE OF A CONSEQUENTIAL DECISION OR FOR A LONGER PERIOD

1 IF REQUIRED BY APPLICABLE STATE OR FEDERAL LAW, RECORDS
2 REASONABLY NECESSARY TO DEMONSTRATE COMPLIANCE WITH THIS PART
3 17. RECORDS MAY INCLUDE, AS APPLICABLE, COVERED ADMT VERSION
4 IDENTIFIERS, CHANGELOGS, AND DOCUMENTATION OF MATERIAL
5 MITIGATION CHANGES.

6 **6-1-1704. Deployer disclosures - point-of-interaction notice -**
7 **public posting option - post-adverse outcome disclosures - legislative**
8 **declaration - trade secrets - compliance with other law - accessibility**
9 **- rules.**

10 (1) PRIOR TO A DEPLOYER USING A COVERED ADMT TO
11 MATERIALLY INFLUENCE A CONSEQUENTIAL DECISION, THE DEPLOYER
12 SHALL PROVIDE A CLEAR AND CONSPICUOUS NOTICE TO A CONSUMER THAT
13 THE DEPLOYER USED OR WILL USE A COVERED ADMT IN A
14 CONSEQUENTIAL DECISION AFFECTING THE CONSUMER AND INSTRUCTIONS
15 REGARDING HOW THE CONSUMER MAY OBTAIN THE ADDITIONAL
16 INFORMATION DESCRIBED IN THIS SECTION.

17 (2) A DEPLOYER COMPLIES WITH SUBSECTION (1) OF THIS SECTION
18 BY MAINTAINING A PROMINENT PUBLIC NOTICE THAT IS REASONABLY
19 ACCESSIBLE AT POINTS OF CONSUMER INTERACTION, INCLUDING THROUGH
20 A LINK OR POSTING THAT IS REASONABLY PROXIMATE TO THE INTERACTION
21 OR TRANSACTION IN WHICH A CONSEQUENTIAL DECISION MAY OCCUR.

22 (3) IF A DEPLOYER USES A COVERED ADMT TO MATERIALLY
23 INFLUENCE A CONSEQUENTIAL DECISION THAT RESULTS IN AN ADVERSE
24 OUTCOME FOR A CONSUMER, THE DEPLOYER SHALL PROVIDE WITHIN
25 THIRTY DAYS AFTER MAKING THE DECISION:

26 (a) A PLAIN LANGUAGE DESCRIPTION OF THE CONSEQUENTIAL
27 DECISION AND THE ROLE THE COVERED ADMT PLAYED IN THE

1 CONSEQUENTIAL DECISION;

2 (b) INSTRUCTIONS AND A SIMPLE-TO-FOLLOW PROCESS TO REQUEST
3 ADDITIONAL INFORMATION ABOUT THE COVERED ADMT AND THE INPUTS,
4 INCLUDING THE NAME OF THE COVERED ADMT, THE COVERED ADMT
5 VERSION NUMBER, IF APPLICABLE, THE COVERED ADMT DEVELOPER, AND
6 THE TYPES, CATEGORIES, AND SOURCES OF PERSONAL DATA USED, TO THE
7 EXTENT THE DEPLOYER RECEIVES THE NECESSARY INFORMATION FROM
8 THE DEVELOPER IN COMPLIANCE WITH SECTION 6-1-1702; AND

9 (c) AN EXPLANATION OF THE CONSUMER RIGHTS DESCRIBED IN
10 SECTION 6-1-1705 AND HOW TO EXERCISE THEM.

11 (4) (a) THE GENERAL ASSEMBLY FINDS THAT THE SPECIFIC
12 CONTENT AND FORMAT OF POST-ADVERSE OUTCOME DISCLOSURES MAY
13 VARY ACROSS CONSEQUENTIAL DECISION DOMAINS. THE GENERAL
14 ASSEMBLY INTENDS THAT THE SPECIFIC ELEMENTS OF POST-ADVERSE
15 OUTCOME DISCLOSURES BE FURTHER CLARIFIED THROUGH RULE-MAKING
16 THAT ACCOUNTS FOR SECTOR-SPECIFIC PRACTICES WHILE ENSURING THAT
17 CONSUMERS RECEIVE MEANINGFUL AND UNDERSTANDABLE INFORMATION
18 ABOUT CONSEQUENTIAL DECISIONS.

19 (b) ON OR BEFORE JANUARY 1, 2027, THE ATTORNEY GENERAL
20 SHALL ADOPT RULES TO CLARIFY AND IMPLEMENT THE POST-ADVERSE
21 OUTCOME DISCLOSURE REQUIREMENTS SET FORTH IN SUBSECTION (3) OF
22 THIS SECTION. RULES ADOPTED PURSUANT TO THIS SUBSECTION (4) MAY
23 INCLUDE, AS APPROPRIATE:

24 (I) RULES CLARIFYING THE CONTENT OF REQUIRED DISCLOSURES
25 RELATED TO THE TYPES, SOURCES, OR CATEGORIES OF PERSONAL DATA
26 THAT A DEPLOYER MUST PROVIDE TO A CONSUMER FOLLOWING AN
27 ADVERSE OUTCOME INVOLVING A COVERED ADMT PURSUANT TO

1 SUBSECTION (3) OF THIS SECTION;

2 (II) SECTOR-SPECIFIC GUIDANCE OR ILLUSTRATIVE EXAMPLES
3 TAILORED TO DIFFERENT COVERED DOMAINS;

4 (III) STANDARDS FOR DESCRIBING THE ROLE OF THE COVERED
5 ADMT IN A CONSEQUENTIAL DECISION IN A MANNER THAT IS
6 REASONABLY UNDERSTANDABLE TO A CONSUMER; AND

7 (IV) GUIDANCE ADDRESSING HOW THE DISCLOSURE
8 REQUIREMENTS DESCRIBED IN THIS SECTION INTERACT WITH FEDERAL OR
9 STATE LAWS THAT REQUIRE OR GOVERN NOTICES, EXPLANATIONS, OR
10 ADVERSE OUTCOME DISCLOSURES.

11 (5) NOTHING IN THIS SECTION REQUIRES A DEPLOYER TO DISCLOSE
12 A TRADE SECRET OR INFORMATION PROTECTED FROM DISCLOSURE BY
13 STATE OR FEDERAL LAW. IF A DEPLOYER WITHHOLDS INFORMATION
14 PURSUANT TO THIS SUBSECTION (5), THE DEPLOYER SHALL NOTIFY THE
15 CONSUMER.

16 (6)(a) A CREDITOR, WITH RESPECT TO A CONSEQUENTIAL DECISION
17 INVOLVING THE OFFERING, THE DENIAL, THE PRICING, THE SERVICING, OR
18 OTHER MATERIAL TERMS OF CREDIT, THAT IS REQUIRED TO PROVIDE AND
19 THAT PROVIDES A NOTICE TO A CONSUMER PURSUANT TO THE FEDERAL
20 "EQUAL CREDIT OPPORTUNITY ACT", 15 U.S.C. SEC. 1691 ET SEQ., AND
21 ITS IMPLEMENTING REGULATIONS, INCLUDING REGULATION B, 12 CFR
22 1002, AND, WHEN APPLICABLE, THE FEDERAL "FAIR CREDIT REPORTING
23 ACT", 15 U.S.C. SEC. 1681 ET SEQ., COMPLIES WITH THE NOTICE OR
24 DISCLOSURE REQUIREMENTS OF THIS SECTION THAT RELATE TO THE SAME
25 DECISION OR ADVERSE OUTCOME IF THE NOTICE PROVIDED TO THE
26 CONSUMER PURSUANT TO THE FEDERAL LAWS AND REGULATIONS
27 DESCRIBED IN THIS SUBSECTION (6)(a) ALSO SATISFIES THE NOTICE OR

1 DISCLOSURE REQUIREMENTS OF THIS SECTION.

2 (b) IF A CREDITOR COMPLIES WITH THE FEDERAL LAWS AND
3 REGULATIONS DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION AND
4 COMPLIES WITH SUBSECTION (6)(a) OF THIS SECTION, THE CREDITOR IS NOT
5 REQUIRED TO PROVIDE A SEPARATE OR DUPLICATIVE NOTICE PURSUANT TO
6 THIS SECTION.

7 (c) NOTHING IN THIS SUBSECTION (6) SHALL BE CONSTRUED TO
8 REQUIRE A CREDITOR TO PROVIDE ANY NOTICE OR DISCLOSURE IN A
9 MANNER THAT IS PROHIBITED BY FEDERAL LAW.

10 (d) FOR PURPOSES OF THIS SUBSECTION (6), A NOTICE THAT
11 COMPLIES WITH THE FEDERAL LAWS AND REGULATIONS DESCRIBED IN
12 SUBSECTION (6)(a) OF THIS SECTION AND COMPLIES WITH SUBSECTION
13 (6)(a) OF THIS SECTION MAY INCLUDE A BRIEF STATEMENT INDICATING
14 THAT A COVERED ADMT WAS USED TO MATERIALLY INFLUENCE THE
15 CONSEQUENTIAL DECISION AND INSTRUCTIONS FOR HOW THE CONSUMER
16 MAY OBTAIN ANY ADDITIONAL INFORMATION OR EXERCISE ANY RIGHTS
17 PROVIDED UNDER THIS PART 17.

18 (7) THIS PART 17 SHALL NOT BE CONSTRUED TO REQUIRE A PERSON
19 TO MAKE A DISCLOSURE, PROVIDE AN EXPLANATION, OR FURNISH
20 INFORMATION TO A CONSUMER TO THE EXTENT DOING SO WOULD BE
21 PROHIBITED BY FEDERAL LAW OR WOULD COMPROMISE THE
22 CONFIDENTIALITY OR INTEGRITY OF CYBERSECURITY, FRAUD PREVENTION,
23 ANTI-MONEY LAUNDERING, COUNTER-TERRORIST FINANCING, OR
24 ECONOMIC SANCTIONS COMPLIANCE PROGRAMS REQUIRED BY LAW.

25 (8) A DEPLOYER OR DEVELOPER SHALL PROVIDE THE NOTICES AND
26 DISCLOSURES REQUIRED BY THIS PART 17 IN A MANNER THAT IS
27 REASONABLY ACCESSIBLE TO CONSUMERS WITH DISABILITIES AND

1 CONSUMERS WITH LIMITED ENGLISH PROFICIENCY, CONSISTENT WITH
2 APPLICABLE STATE AND FEDERAL LAW.

3 (9) (a) FOR A CONSEQUENTIAL DECISION RELATING TO EDUCATION,
4 A DEPLOYER THAT IS SUBJECT TO FERPA SATISFIES THE NOTICE AND
5 DISCLOSURE REQUIREMENTS OF THIS SECTION BY PROVIDING NOTICE AND
6 DISCLOSURES THROUGH PROCESSES AND CHANNELS THAT ARE CONSISTENT
7 WITH FERPA AND THE DEPLOYER'S FERPA NOTICES AND STUDENT
8 RECORD ACCESS PROCEDURES, INCLUDING, WHERE APPLICABLE, NOTICE TO
9 A PARENT OR GUARDIAN OR AN ELIGIBLE STUDENT.

10 (b) A DEPLOYER THAT IS SUBJECT TO FERPA IS NOT REQUIRED TO
11 ESTABLISH A SEPARATE OR DUPLICATIVE NOTICE OR DISCLOSURE PROCESS
12 IF THE DEPLOYER HAS ESTABLISHED A NOTICE OR DISCLOSURE PROCESS TO
13 COMPLY WITH FERPA.

14 **6-1-1705. Consumer rights - correction - human review and**
15 **reconsideration - rules.**

16 (1) (a) WHEN A CONSUMER EXPERIENCES AN ADVERSE OUTCOME
17 RESULTING FROM A CONSEQUENTIAL DECISION IN WHICH A COVERED
18 ADMT MATERIALLY INFLUENCES THE CONSEQUENTIAL DECISION, THE
19 CONSUMER MAY REQUEST AND THE DEPLOYER SHALL PROVIDE IN
20 RESPONSE TO THE REQUEST:

21 (I) INSTRUCTIONS FOR REQUESTING PERSONAL DATA AND
22 CORRECTING FACTUALLY INCORRECT OR MATERIALLY INACCURATE
23 PERSONAL DATA USED IN A CONSEQUENTIAL DECISION THAT USED A
24 COVERED ADMT CONSISTENT WITH SECTION 6-1-1306; AND

25 (II) AN OPPORTUNITY FOR MEANINGFUL HUMAN REVIEW AND
26 RECONSIDERATION OF THE CONSEQUENTIAL DECISION, TO THE EXTENT
27 COMMERCIALY REASONABLE.

1 (b) FOR THE PURPOSES OF THIS SUBSECTION (1), THE EXCEPTIONS
2 TO THE DEFINITION OF "CONSUMER" IN SECTION 6-1-1303 (6)(b) AND THE
3 EXCEPTIONS IN SECTION 6-1-1304 (2)(k), (2)(n), AND (2)(o) DO NOT APPLY
4 TO THE RIGHT TO REQUEST CORRECTION OF FACTUALLY INCORRECT OR
5 MATERIALLY INACCURATE PERSONAL DATA PURSUANT TO THIS
6 SUBSECTION (1).

7 (c) SUBSECTION (1)(a) OF THIS SECTION DOES NOT REQUIRE
8 CORRECTION OF OPINIONS, PREDICTIONS, SCORES, OR PROTECTED
9 EVALUATIONS.

10 (2) (a) FOR A CONSEQUENTIAL DECISION RELATING TO EDUCATION,
11 A DEPLOYER THAT IS SUBJECT TO FERPA COMPLIES WITH THE
12 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION THROUGH THE
13 DEPLOYER'S EXISTING STUDENT RECORD INSPECTION, REVIEW, AND
14 AMENDMENT PROCEDURES AND ANY APPLICABLE DISTRICT COMPLAINT OR
15 APPEAL PROCESS, IF THE DEPLOYER OFFERS A REASONABLE MECHANISM
16 FOR A PARENT, GUARDIAN, OR ELIGIBLE STUDENT TO REQUEST
17 CORRECTION OF MATERIALLY INACCURATE PERSONAL DATA AND
18 RECONSIDERATION WHERE APPLICABLE UNDER THIS PART 17.

19 (b) A DEPLOYER THAT IS SUBJECT TO FERPA IS NOT REQUIRED TO
20 ESTABLISH A SEPARATE OR DUPLICATIVE CORRECTION OR HUMAN REVIEW
21 AND RECONSIDERATION PROCESS IF THE DEPLOYER HAS ESTABLISHED A
22 CORRECTION OR HUMAN REVIEW AND RECONSIDERATION PROCESS TO
23 COMPLY WITH FERPA.

24 (3) ON OR BEFORE JANUARY 1, 2027, THE ATTORNEY GENERAL
25 SHALL ADOPT RULES TO CLARIFY AND IMPLEMENT THE REQUIREMENTS OF
26 THIS SECTION.

27 **6-1-1706. Enforcement by the attorney general - deceptive**

1 **trade practice - right to cure - no private right of action - joinder**
2 **rules - reporting - repeal.**

3 (1) (a) THE ATTORNEY GENERAL SHALL ENFORCE THIS PART 17
4 THROUGH THE "COLORADO CONSUMER PROTECTION ACT", THIS ARTICLE
5 1.

6 (b) VIOLATIONS OF THE DISCLOSURE REQUIREMENTS AND
7 CONSUMER RIGHTS DESCRIBED IN SECTIONS 6-1-1702, 6-1-1703, 6-1-1704,
8 AND 6-1-1705 ARE ENFORCEABLE EXCLUSIVELY BY THE ATTORNEY
9 GENERAL WITHOUT REGARD TO ANY OTHER PROVISION IN THIS TITLE 6.

10 (2) (a) A VIOLATION OF THIS PART 17 IS A DECEPTIVE TRADE
11 PRACTICE AND IS SUBJECT TO THE PROVISIONS OF THE "COLORADO
12 CONSUMER PROTECTION ACT", THIS ARTICLE 1.

13 (b) ANY PROVISION OF THE "COLORADO CONSUMER PROTECTION
14 ACT", THIS ARTICLE 1, THAT IS INCONSISTENT WITH THE EXCLUSIVE
15 ENFORCEMENT AUTHORITY GRANTED TO THE ATTORNEY GENERAL IN THIS
16 SECTION FOR A VIOLATION OF THIS PART 17 DOES NOT APPLY TO ANY SUCH
17 VIOLATION.

18 (3) (a) PRIOR TO ANY ENFORCEMENT ACTION FOR A VIOLATION OF
19 THIS PART 17, THE ATTORNEY GENERAL SHALL ISSUE A NOTICE OF
20 VIOLATION TO A DEVELOPER OR DEPLOYER IF A CURE IS DEEMED POSSIBLE
21 BY THE ATTORNEY GENERAL.

22 (b) IF THE DEVELOPER OR DEPLOYER FAILS TO CURE A VIOLATION
23 WITHIN SIXTY DAYS AFTER RECEIPT OF A NOTICE OF VIOLATION, THE
24 ATTORNEY GENERAL MAY BRING AN ACTION PURSUANT TO THIS SECTION.

25 (c) IF THE ATTORNEY GENERAL FINDS AND CAN DEMONSTRATE
26 THAT A DEVELOPER OR DEPLOYER KNOWINGLY VIOLATED THIS PART 17 OR
27 A DEVELOPER OR DEPLOYER REPEATEDLY VIOLATED THIS PART 17, THE

1 ATTORNEY GENERAL IS NOT REQUIRED TO PROVIDE A CURE PERIOD BEFORE
2 SEEKING PENALTIES OR OTHER RELIEF.

3 (d) IF A VIOLATION IS DISCOVERED IN THE COURSE OF AN
4 ENFORCEMENT ACTION, A COURT MAY CONSIDER THAT A DEVELOPER OR
5 DEPLOYER CURED THE VIOLATION WITHIN SIXTY DAYS AFTER RECEIPT OF
6 WRITTEN NOTICE AS A MITIGATING FACTOR IN DETERMINING CIVIL
7 PENALTIES OR OTHER MONETARY RELIEF, IF ANY.

8 (e) BEGINNING IN JANUARY 2028, AND IN JANUARY EVERY YEAR
9 THEREAFTER, THE ATTORNEY GENERAL SHALL INCLUDE, AS PART OF THE
10 DEPARTMENT OF LAW'S PRESENTATION DURING ITS "SMART ACT"
11 HEARING REQUIRED BY SECTION 2-7-203, A REPORT CONCERNING
12 ENFORCEMENT ACTIONS BROUGHT AND CURE PERIODS OFFERED BY THE
13 ATTORNEY GENERAL RELATED TO VIOLATIONS OF THIS PART 17,
14 INCLUDING:

15 (I) THE NUMBER OF ACTIONS FILED BY THE ATTORNEY GENERAL
16 AGAINST DEVELOPERS AND DEPLOYERS, RESPECTIVELY;

17 (II) THE NUMBER OF ACTIONS FILED BY THE ATTORNEY GENERAL
18 AGAINST DEVELOPERS AND DEPLOYERS, RESPECTIVELY, THAT WERE
19 COMPLETED;

20 (III) THE NUMBER OF CURE PERIODS OFFERED BY THE ATTORNEY
21 GENERAL TO DEVELOPERS AND DEPLOYERS, RESPECTIVELY;

22 (IV) THE NUMBER OF CURE PERIODS OFFERED BY THE ATTORNEY
23 GENERAL THAT WERE NOT MET BY DEVELOPERS AND DEPLOYERS,
24 RESPECTIVELY; AND

25 (V) THE NUMBER OF VIOLATIONS FILED BY THE ATTORNEY
26 GENERAL AGAINST DEVELOPERS AND DEPLOYERS, RESPECTIVELY, WHERE
27 A CURE PERIOD WAS NOT DEEMED POSSIBLE.

1 (f) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1,
2 2030.

3 (4) NOTHING IN THIS PART 17 CREATES A NEW PRIVATE RIGHT OF
4 ACTION. NOTHING IN THIS PART 17 LIMITS OR REDUCES ANY EXISTING
5 RIGHTS OR REMEDIES AVAILABLE UNDER STATE OR FEDERAL LAW,
6 INCLUDING THE "COLORADO ANTI-DISCRIMINATION ACT", PARTS 3 TO 8
7 OF ARTICLE 34 OF TITLE 24; THE "COLORADO CONSUMER PROTECTION
8 ACT", THIS ARTICLE 1; PRODUCT LIABILITY LAW; OR OTHER APPLICABLE
9 LAW.

10 (5)(a) THE ATTORNEY GENERAL MAY ADOPT RULES AS NECESSARY
11 TO IMPLEMENT AND CLARIFY THIS PART 17.

12 (b) THE ATTORNEY GENERAL MAY ADOPT RULES TO CLARIFY THE
13 APPLICATION OF THE DEFINITION OF "MATERIALLY INFLUENCE", AS
14 DEFINED IN SECTION 6-1-1701 (13), INCLUDING PRESUMPTIONS,
15 ILLUSTRATIVE EXAMPLES, AND OBJECTIVE INDICATORS.

16 (c) IN ADOPTING RULES PURSUANT TO THIS PART 17, THE
17 ATTORNEY GENERAL SHALL UTILIZE A PROCESS THAT MEANINGFULLY
18 ENGAGES STAKEHOLDERS, INCLUDING CONSUMER ADVOCATES,
19 DEPLOYERS, DEVELOPERS, AND SECTOR REGULATORS, THROUGH PUBLIC
20 NOTICE, OPPORTUNITY FOR WRITTEN COMMENT, AND AT LEAST ONE PUBLIC
21 HEARING AND SHALL ADOPT RULES IN ACCORDANCE WITH SECTION
22 24-4-103.

23 (6) NOTHING IN THIS PART 17 LIMITS THE ABILITY OF A PARTY TO
24 JOIN NECESSARY OR PERMISSIVE PARTIES UNDER THE COLORADO RULES OF
25 CIVIL PROCEDURE, INCLUDING RULES 19 AND 20 OF THE COLORADO RULES
26 OF CIVIL PROCEDURE, IN ANY ACTION ARISING UNDER OTHER LAW.

27 **6-1-1707. Liability - fault - allocation - no joint and several**

1 **liability - indemnification prohibited - effect on other law.**

2 (1) A DEVELOPER OR DEPLOYER MAY BE HELD LIABLE IN AN
3 ACTION ALLEGING UNLAWFUL DISCRIMINATION UNDER STATE
4 ANTI-DISCRIMINATION LAWS, INCLUDING THE "COLORADO
5 ANTI-DISCRIMINATION ACT", PARTS 3 TO 8 OF ARTICLE 34 OF TITLE 24,
6 ARISING FROM A CONSEQUENTIAL DECISION MATERIALLY INFLUENCED BY
7 A COVERED ADMT.

8 (2) IN AN ACTION DESCRIBED IN SUBSECTION (1) OF THIS SECTION,
9 FAULT SHALL BE ALLOCATED AMONG DEPLOYERS AND DEVELOPERS BASED
10 ON THEIR RELATIVE FAULT FOR THE VIOLATION.

11 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO APPORTION
12 LIABILITY TO A CLAIMANT WHERE SUCH APPORTIONMENT IS NOT PROVIDED
13 FOR UNDER OTHER LAW.

14 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE
15 JOINT AND SEVERAL LIABILITY, EXCEPT TO THE EXTENT PERMITTED UNDER
16 OTHER LAW.

17 (5) (a) A DEVELOPER IS LIABLE IN AN ACTION DESCRIBED IN
18 SUBSECTION (1) OF THIS SECTION ONLY TO THE EXTENT THAT:

19 (I) THE DEVELOPER'S COVERED ADMT WAS USED BY A DEPLOYER
20 IN A MANNER THAT WAS INTENDED, DOCUMENTED, MARKETED,
21 ADVERTISED, CONFIGURED, OR CONTRACTED FOR BY THE DEVELOPER; AND

22 (II) THE DEVELOPER'S COVERED ADMT MATERIALLY INFLUENCED
23 A CONSEQUENTIAL DECISION THAT GAVE RISE TO THE VIOLATION OF OTHER
24 LAW.

25 (b) A DEVELOPER IS NOT LIABLE UNDER THIS SECTION FOR
26 VIOLATIONS OF OTHER LAW ARISING FROM A DEPLOYER'S USE OF A
27 COVERED ADMT IN A MANNER THAT WAS NOT INTENDED, DOCUMENTED,

1 MARKETED, ADVERTISED, CONFIGURED, OR CONTRACTED FOR BY THE
2 DEVELOPER.

3 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE
4 LIABILITY OF A DEPLOYER FOR THE DEPLOYER'S INDEPENDENT ACTS OR
5 OMISSIONS IN A CONSEQUENTIAL DECISION MATERIALLY INFLUENCED BY
6 A COVERED ADMT, INCLUDING USING AN ADMT IN A MANNER THAT WAS
7 NOT INTENDED, DOCUMENTED, MARKETED, ADVERTISED, CONFIGURED, OR
8 CONTRACTED FOR BY THE DEVELOPER IF THE DEVELOPER OF THE COVERED
9 ADMT COMPLIED WITH SECTION 6-1-1702.

10 (7) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A
11 PROVISION OF A CONTRACT FOR THE USE OF AUTOMATED
12 DECISION-MAKING TECHNOLOGY IN MAKING A CONSEQUENTIAL DECISION
13 OR ANY OTHER CONTRACT BETWEEN A DEVELOPER AND DEPLOYER
14 PURPORTS TO INDEMNIFY, DEFEND, OR HOLD HARMLESS OR HAS THE
15 EFFECT OF INDEMNIFYING, DEFENDING, OR HOLDING HARMLESS THE
16 INDEMNITEE FROM OR AGAINST ANY LIABILITY FOR DAMAGES PURSUANT
17 TO THIS SECTION RESULTING FROM THE DEVELOPER'S OR DEPLOYER'S OWN
18 ACTS OR OMISSIONS RELATED TO THE USE OF AUTOMATED
19 DECISION-MAKING TECHNOLOGY IN MAKING CONSEQUENTIAL DECISIONS
20 IN VIOLATION OF THE "COLORADO ANTI-DISCRIMINATION ACT", PARTS 3
21 TO 8 OF ARTICLE 34 OF TITLE 24, OR OTHER COLORADO
22 ANTI-DISCRIMINATION LAW, THE PROVISION IS CONTRARY TO PUBLIC
23 POLICY AND VOID.

24 (b) THE LIMITATIONS OF SUBSECTION (7)(a) OF THIS SECTION DO
25 NOT APPLY TO A DEVELOPER WHERE THE USE OF THE COVERED ADMT IN
26 MAKING A CONSEQUENTIAL DECISION WAS NOT INTENDED, DOCUMENTED,
27 MARKETED, ADVERTISED, CONFIGURED, OR CONTRACTED FOR BY THE

1 DEVELOPER IF THE DEVELOPER OF THE COVERED ADMT COMPLIED WITH
2 SECTION 6-1-1702.

3 (c) THIS SUBSECTION (7) DOES NOT OTHERWISE LIMIT THE
4 ENFORCEABILITY OF CONTRACT TERMS BETWEEN PARTIES ACTING IN A
5 COMMERCIAL OR BUSINESS CAPACITY, EXCEPT TO THE EXTENT OTHERWISE
6 PROVIDED BY APPLICABLE LAW.

7 (d) THIS SUBSECTION (7) DOES NOT PROHIBIT OR LIMIT ANY PERSON
8 FROM OBTAINING OR MAKING A CLAIM ON APPLICABLE INSURANCE FOR
9 ANY APPLICABLE ALLEGED LIABILITIES OR RELATED LOSSES.

10 (8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT,
11 DISPLACE, OR OTHERWISE AFFECT ANY LIABILITY THAT A DEVELOPER OR
12 A DEPLOYER MAY HAVE, SEPARATE AND APART FROM LIABILITY UNDER
13 THIS SECTION, FOR A VIOLATION OF STATE LAW. COMPLIANCE WITH THE
14 REQUIREMENTS OF THIS PART 17 IS NOT A DEFENSE TO AND DOES NOT
15 OTHERWISE EXCUSE NONCOMPLIANCE WITH ANY APPLICABLE LAW.

16 (9) THE USE OF AN ADMT IN A CONSEQUENTIAL DECISION DOES
17 NOT EXCUSE, JUSTIFY, OR PROVIDE A DEFENSE TO ANY OBLIGATION OR
18 LIABILITY UNDER STATE OR FEDERAL LAW, INCLUDING OBLIGATIONS AND
19 LIABILITY RELATED TO DISCRIMINATION OR CONSUMER PROTECTION.

20 **6-1-1708. Compliance with other legal obligations - insurers**
21 **- covered entities - disclosures.**

22 (1) (a) AN INSURER, AS DEFINED IN SECTION 10-1-102 (13), AND
23 ANY AFFILIATED ENTITIES ARE IN COMPLIANCE WITH THIS PART 17
24 REGARDING THE PRACTICE OF INSURANCE IF THE INSURER AND ANY
25 AFFILIATED ENTITIES ARE SUBJECT TO THE REQUIREMENTS OF SECTION
26 10-3-1104.9.

27 (b) IF AN INSURER IS NOT DEEMED IN COMPLIANCE PURSUANT TO

1 SUBSECTION (1)(a) OF THIS SECTION, THE INSURER SHALL PROVIDE NOTICE
2 AND DISCLOSURE OF ITS USE OF A COVERED ADMT IN MATERIALLY
3 INFLUENCING A CONSEQUENTIAL DECISION REGARDING THE PRACTICE OF
4 INSURANCE PURSUANT TO THE DISCLOSURE REQUIREMENTS OF SECTION
5 6-1-1704 (3), TO THE EXTENT APPLICABLE.

6 (2) THIS SECTION DOES NOT LIMIT THE APPLICABILITY OF THIS PART
7 17 TO USES OF COVERED ADMT RELATED TO INSURER EMPLOYMENT OR
8 INSURER EMPLOYMENT OPPORTUNITIES BY INSURERS AND AFFILIATED
9 ENTITIES THAT ARE SUBJECT TO THE REQUIREMENTS OF SECTION
10 10-3-1104.9.

11 (3) (a) SECTIONS 6-1-1701, 6-1-1702, 6-1-1703, 6-1-1704,
12 6-1-1705, AND 6-1-1706 DO NOT APPLY TO A COVERED ENTITY WITHIN THE
13 MEANING OF THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
14 ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9, AND
15 THE REGULATIONS PROMULGATED UNDER THE FEDERAL ACT, OR A
16 COVERED ENTITY'S BUSINESS ASSOCIATES FOR ANY SERVICES RENDERED
17 TO A COVERED ENTITY, TO THE EXTENT THE COVERED ENTITY IS DOING
18 BUSINESS IN COLORADO, EXCEPT FOR A CONSEQUENTIAL DECISION
19 RELATED TO EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.

20 (b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, FOR
21 A COVERED ENTITY THAT IS A HEALTH-CARE PROVIDER, AS DEFINED IN 45
22 CFR 160.103, THIS SUBSECTION (3) APPLIES ONLY IF THE HEALTH-CARE
23 PROVIDER IS OPERATING FROM A LOCATION WITHIN COLORADO.

24 (c) A COVERED ENTITY SHALL PROVIDE PATIENTS WITH A GENERAL
25 NOTICE OF USE OF ADVANCED TECHNOLOGIES, INCLUDING A COVERED
26 ADMT. THE NOTICE MAY BE INCORPORATED WITH OTHER NOTICES
27 DESCRIBING PATIENT RIGHTS AND HOW THE COVERED ENTITY PROVIDES

1 CARE.

2 (d) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, A
3 COVERED ENTITY THAT USES A COVERED ADMT TO DETERMINE A
4 PATIENT'S ELIGIBILITY FOR FINANCIAL ASSISTANCE, INCLUDING
5 DISCOUNTED CARE AS DESCRIBED IN SECTION 25.5-3-502, SHALL PROVIDE
6 A PATIENT THE FOLLOWING DISCLOSURES:

7 (I) A PLAIN LANGUAGE DESCRIPTION OF THE CONSEQUENTIAL
8 DECISION AND THE ROLE OF THE COVERED ADMT IN THE CONSEQUENTIAL
9 DECISION;

10 (II) THE TYPES OF INFORMATION ABOUT THE INDIVIDUAL THE
11 COVERED ENTITY RELIED UPON IN MAKING ITS DETERMINATION OF
12 ELIGIBILITY, EXCEPT FOR TRADE SECRETS AND OTHER CONFIDENTIAL OR
13 LEGALLY PROTECTED INFORMATION;

14 (III) INFORMATION ON HOW TO REQUEST CORRECTION OF
15 MATERIALLY INACCURATE PERSONAL DATA HELD BY THE COVERED ENTITY
16 CONSISTENT WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
17 ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9 AND
18 SECTION 25.5-3-502; AND

19 (IV) INFORMATION ON HOW TO REQUEST MEANINGFUL HUMAN
20 REVIEW OR RECONSIDERATION, WHERE APPLICABLE.

21 (e) A COVERED ENTITY MAY COMPLY WITH SUBSECTION (3)(d) OF
22 THIS SECTION THROUGH EITHER AN ADVANCE GENERAL DISCLOSURE OF
23 THE INFORMATION REQUIRED BY SUBSECTION (3)(d) OF THIS SECTION OR
24 THROUGH A NOTICE PROVIDED WITHIN THIRTY CALENDAR DAYS AFTER AN
25 ADVERSE OUTCOME. THIS SECTION DOES NOT CREATE A SEPARATE AND
26 DUPLICATIVE DISCLOSURE PROCESS OR APPEAL PROCESS IF THE REVIEW
27 OPPORTUNITIES AND INFORMATION DESCRIBED IN SUBSECTION (3)(d) OF

1 THIS SECTION ARE PROVIDED.

2 (4) SECTIONS 6-1-1701, 6-1-1702, 6-1-1703, 6-1-1704, 6-1-1705,
3 AND 6-1-1706 DO NOT APPLY TO A MEDICAL DEVICE SUBJECT TO
4 OVERSIGHT BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION OR
5 A PHARMACEUTICAL OR MEDICAL DEVICE MANUFACTURER'S RESEARCH
6 AND DEVELOPMENT ACTIVITIES THAT ARE SUBJECT TO OVERSIGHT BY THE
7 UNITED STATES FOOD AND DRUG ADMINISTRATION, INCLUDING CLINICAL
8 INVESTIGATIONS CONDUCTED UNDER 21 CFR 312.

9 (5) NOTHING IN THIS PART 17 REQUIRES A COVERED ENTITY OR
10 BUSINESS ASSOCIATE, AS THOSE TERMS ARE DEFINED UNDER THE FEDERAL
11 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
12 42 U.S.C. SECS. 1320d TO 1320d-9, TO DISCLOSE PROTECTED HEALTH
13 INFORMATION OR OTHER INFORMATION IN A MANNER THAT WOULD
14 VIOLATE FEDERAL LAW. TO THE EXTENT COMPLIANCE WITH SECTION
15 6-1-1704 OR 6-1-1705 WOULD CONFLICT WITH FEDERAL HEALTH PRIVACY
16 REQUIREMENTS, THE DEPLOYER SHALL COMPLY WITH APPLICABLE
17 FEDERAL LAW AND PROVIDE DISCLOSURES AND ACCESS CONSISTENT WITH
18 THAT LAW.

19 (6) THIS PART 17 DOES NOT REQUIRE A PERSON TO DISCLOSE
20 NONPUBLIC PERSONAL INFORMATION IN A MANNER THAT WOULD VIOLATE
21 THE FEDERAL "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET
22 SEQ., OR ITS IMPLEMENTING REGULATIONS.

23 **6-1-1709. No new private right of action - application of other**
24 **law.**

25 (1) NOTHING IN THIS PART 17 CREATES A NEW PRIVATE RIGHT OF
26 ACTION.

27 (2) COMPLIANCE WITH THIS PART 17 DOES NOT CONSTITUTE A

1 DEFENSE TO AND DOES NOT EXCUSE NONCOMPLIANCE WITH ANY
2 APPLICABLE LAW.

3 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **add**
4 (1)(qqqq) as follows:

5 **6-1-105. Unfair or deceptive trade practices.**

6 (1) A person engages in a deceptive trade practice when, in the
7 course of the person's business, vocation, or occupation, the person:

8 (qqqq) VIOLATES PART 17 OF THIS ARTICLE 1.

9 **SECTION 3.** In Colorado Revised Statutes, 10-3-1104.9, **add**
10 (3)(e) as follows:

11 **10-3-1104.9. Insurers' use of external consumer data and**
12 **information sources, algorithms, and predictive models - unfair**
13 **discrimination prohibited - rules - stakeholder process required -**
14 **investigations - definitions.**

15 (3) (e) THE COMMISSIONER MAY ADOPT NEW RULES OR UPDATE
16 EXISTING RULES REGARDING NOTICE AND DISCLOSURES FROM INSURERS TO
17 CONSUMERS.

18 **SECTION 4. Applicability.** This act applies to consequential
19 decisions made on or after the effective date of this act.

20 **SECTION 5. Safety clause.** The general assembly finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety or for appropriations for
23 the support and maintenance of the departments of the state and state
24 institutions.