

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0676.01 Richard Sweetman x4333

SENATE BILL 22-113

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

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, AND TEMPORARILY
106 PROHIBITING THE USE OF FACIAL RECOGNITION SERVICES BY
107 PUBLIC SCHOOLS.

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 CHAIR AND VICE-CHAIR OF THE COMMITTEE SHALL

1 APPOINT AT LEAST SIXTEEN MEMBERS, AS WELL AS ANY ADDITIONAL
2 MEMBERS AT THE DISCRETION OF THE CHAIR AND VICE-CHAIR, AS
3 FOLLOWS:

4 (I) FOUR MEMBERS WHO ARE LEGISLATORS AND MEMBERS OF THE
5 COMMITTEE, NO MORE THAN TWO OF WHOM MAY BE MEMBERS OF THE
6 SAME POLITICAL PARTY;

7 (II) ONE MEMBER WHO REPRESENTS THE OFFICE;

8 (III) ONE MEMBER WHO REPRESENTS THE ATTORNEY GENERAL'S
9 OFFICE;

10 (IV) ONE MEMBER WHO REPRESENTS THE STATE BOARD OF
11 EDUCATION;

12 (V) ONE MEMBER WHO REPRESENTS LOCAL SCHOOL DISTRICT
13 BOARDS OF EDUCATION;

14 (VI) ONE OR MORE MEMBERS WHO ARE INSTRUCTORS AT AN
15 INSTITUTION OF HIGHER EDUCATION AND HAVE EXPERT KNOWLEDGE OF,
16 AND EXPERIENCE WITH, ARTIFICIAL INTELLIGENCE TECHNOLOGY;

17 (VII) ONE OR MORE MEMBERS WHO ARE BUSINESS PROFESSIONALS
18 WITH EXPERT KNOWLEDGE OF, AND EXPERIENCE WITH, ARTIFICIAL
19 INTELLIGENCE PRODUCTS;

20 (VIII) ONE OR MORE MEMBERS WHO ARE ATTORNEYS WITH EXPERT
21 KNOWLEDGE OF, AND EXPERIENCE WITH, FEDERAL AND STATE LAWS
22 CONCERNING ARTIFICIAL INTELLIGENCE;

23 (IX) ONE MEMBER WHO REPRESENTS THE COLORADO DISTRICT
24 ATTORNEYS' COUNCIL;

25 (X) ONE MEMBER WHO REPRESENTS A STATEWIDE ASSOCIATION OF
26 COUNTY SHERIFFS;

27 (XI) ONE MEMBER WHO REPRESENTS A STATEWIDE ASSOCIATION

1 OF CHIEFS OF POLICE;

2 (XII) ONE MEMBER WHO REPRESENTS A STATEWIDE CIVIL
3 LIBERTIES ORGANIZATION; AND

4 (XIII) ONE MEMBER WHO REPRESENTS DISPROPORTIONATELY
5 IMPACTED COMMUNITIES.

6 (c) THE CHAIR AND VICE-CHAIR OF THE COMMITTEE MAY REMOVE
7 AND REPLACE ANY APPOINTMENT TO THE TASK FORCE MADE PURSUANT TO
8 SUBSECTION (1)(b) OF THIS SECTION.

9 (d) THE CHAIR AND VICE-CHAIR OF THE COMMITTEE SHALL FILL
10 ANY VACANCY THAT OCCURS IN THE MEMBERSHIP OF THE TASK FORCE AS
11 SOON AS POSSIBLE IN ACCORDANCE WITH THE LIMITATIONS SPECIFIED IN
12 SUBSECTION (1)(b) OF THIS SECTION.

13 (e) IN MAKING APPOINTMENTS TO THE TASK FORCE, THE CHAIR AND
14 VICE-CHAIR OF THE COMMITTEE SHALL ENSURE THAT THE MEMBERSHIP OF
15 THE TASK FORCE REFLECTS THE ETHNIC, CULTURAL, AND GENDER
16 DIVERSITY OF THE STATE; INCLUDES REPRESENTATION OF ALL AREAS OF
17 THE STATE; AND, TO THE EXTENT PRACTICABLE, INCLUDES PERSONS WITH
18 DISABILITIES.

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

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

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

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

1 HIGHER EDUCATION;

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

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

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

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

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

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

17 (a) ON OR BEFORE OCTOBER 1, 2022, AND ON OR BEFORE EACH
18 OCTOBER 1 THEREAFTER, SELECT A CHAIR AND A VICE-CHAIR FROM
19 AMONG ITS MEMBERS;

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

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

25 (d) CREATE SUBCOMMITTEES AS NEEDED TO CARRY OUT THE
26 DUTIES OF THE TASK FORCE. THE SUBCOMMITTEES MAY CONSIST, IN PART,
27 OF PERSONS WHO ARE NOT MEMBERS OF THE TASK FORCE. SUCH PERSONS

1 MAY VOTE ON ISSUES BEFORE THE SUBCOMMITTEE BUT ARE NOT ENTITLED
2 TO VOTE AT MEETINGS OF THE TASK FORCE.

3 (e) SUBMIT A REPORT TO THE COMMITTEE ON OR BEFORE OCTOBER
4 1, 2023, AND ON OR BEFORE EACH OCTOBER 1 THEREAFTER, THAT, AT A
5 MINIMUM, SPECIFIES:

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

8 (II) FINDINGS AND RECOMMENDATIONS REGARDING ISSUES
9 CONSIDERED BY THE TASK FORCE; AND

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

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

19 (5) **Staff support.** THE DIRECTOR OF RESEARCH OF THE
20 LEGISLATIVE COUNCIL AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE
21 LEGAL SERVICES MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE AS
22 THEY DEEM APPROPRIATE WITHIN EXISTING APPROPRIATIONS. THE TASK
23 FORCE MAY ALSO ACCEPT DONATIONS OF IN-KIND SERVICES FOR STAFF
24 SUPPORT FROM THE PRIVATE SECTOR.

25 (6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1,
26 2032. PRIOR TO THE REPEAL, THE TASK FORCE IS SCHEDULED FOR REVIEW
27 IN ACCORDANCE WITH SECTION 2-3-1203.

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

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

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

9 (b) THIS SUBSECTION (23) IS REPEALED, EFFECTIVE SEPTEMBER 1,
10 2034.

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

13 **2-3-1701. Definitions.** As used in this part 17, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

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

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

19 (b) LEARN FROM PAST BEHAVIOR AND RESULTS AND ADAPT THEIR
20 BEHAVIOR ACCORDINGLY.

21 ~~(1)~~(2) "Committee" means the joint technology committee created
22 in section 2-3-1702.

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

26 ~~(1.7)~~ (4) "Data privacy" means the collection and dissemination
27 of data AND technology and the public expectation of privacy. "Data

1 privacy" also includes the way personally identifiable information or
2 other sensitive information is collected, stored, used, and finally
3 destroyed or deleted, in digital form or otherwise.

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

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

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

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

27 ~~(3)~~ (9) "Office of information technology" OR "OFFICE" means the

1 office of information technology created in section 24-37.5-103. ~~C.R.S.~~

2 (4) (10) "Oversee" means reviews of major information
3 technology projects as defined in section 24-37.5-102 (19), reviews of the
4 office's budget requests for information technology projects, and ensuring
5 that information technology projects follow best practice standards as
6 established by the office. ~~of information technology.~~ "Oversee" does not
7 include interference with the office's general responsibilities set forth in
8 this article 3.

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

16 (12) "TASK FORCE" MEANS THE TASK FORCE FOR THE
17 CONSIDERATION OF ARTIFICIAL INTELLIGENCE CREATED IN SECTION
18 2-3-1707.

19 **SECTION 4.** In Colorado Revised Statutes, **add** part 3 to article
20 18 of title 24 as follows:

21 **PART 3**

22 **USE OF FACIAL RECOGNITION SERVICES BY STATE AND**
23 **LOCAL GOVERNMENT AGENCIES**

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

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

1 (2) "AGENCY" MEANS AN AGENCY OF THE STATE GOVERNMENT OR
2 OF A LOCAL GOVERNMENT.

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 USE OF A FACIAL
26 RECOGNITION SERVICE BY AN AGENCY TO TRACK THE PHYSICAL
27 MOVEMENTS OF A SPECIFIED INDIVIDUAL THROUGH ONE OR MORE PUBLIC

1 PLACES OVER TIME, WHETHER IN REAL TIME OR THROUGH APPLICATION OF
2 A FACIAL RECOGNITION SERVICE TO HISTORICAL RECORDS.

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

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

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

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

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

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

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

25 (14) "REPORTING AUTHORITY" MEANS:

26 (a) FOR A LOCAL GOVERNMENT AGENCY, THE CITY COUNCIL,
27 COUNTY COMMISSION, OR OTHER LOCAL GOVERNMENT AGENCY IN WHICH

1 LEGISLATIVE POWERS ARE VESTED; AND

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

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

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

17 (2) AFTER FILING THE NOTICE OF INTENT DESCRIBED IN
18 SUBSECTION (1) OF THIS SECTION, AND PRIOR TO DEVELOPING, PROCURING,
19 USING, OR CONTINUING TO USE A FACIAL RECOGNITION SERVICE, AN
20 AGENCY SHALL PRODUCE AN ACCOUNTABILITY REPORT FOR THE FACIAL
21 RECOGNITION 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 OTHER ENTITY, THE RULES AND PROCEDURES BY WHICH
13 THE AGENCY WILL ENSURE THAT THE ENTITIES COMPLY WITH THE
14 AGENCY'S USE AND DATA MANAGEMENT POLICY;

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

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

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

27 (f) INFORMATION CONCERNING THE FACIAL RECOGNITION

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **24-18-303. Use of facial recognition service - meaningful**
16 **human review of certain decisions required.** AN AGENCY USING A
17 FACIAL RECOGNITION SERVICE TO MAKE DECISIONS THAT PRODUCE LEGAL
18 EFFECTS CONCERNING INDIVIDUALS OR SIMILARLY SIGNIFICANT EFFECTS
19 CONCERNING INDIVIDUALS MUST ENSURE THAT THOSE DECISIONS ARE
20 SUBJECT TO MEANINGFUL HUMAN REVIEW.

21 **24-18-304. Use of facial recognition service - testing required**
22 **before use in certain contexts - testing capability required.**

23 (1) BEFORE DEPLOYING A FACIAL RECOGNITION SERVICE IN A CONTEXT IN
24 WHICH IT WILL BE USED TO MAKE DECISIONS THAT PRODUCE LEGAL
25 EFFECTS CONCERNING INDIVIDUALS OR SIMILARLY SIGNIFICANT EFFECTS
26 CONCERNING INDIVIDUALS, AN AGENCY MUST TEST THE FACIAL
27 RECOGNITION SERVICE IN OPERATIONAL CONDITIONS. AN AGENCY MUST

1 TAKE REASONABLE STEPS TO ENSURE BEST QUALITY RESULTS BY
2 FOLLOWING ALL GUIDANCE PROVIDED BY THE DEVELOPER OF THE FACIAL
3 RECOGNITION SERVICE.

4 (2)(a) AN AGENCY THAT DEPLOYS A FACIAL RECOGNITION SERVICE
5 SHALL REQUIRE THE FACIAL RECOGNITION SERVICE PROVIDER TO MAKE
6 AVAILABLE AN APPLICATION PROGRAMMING INTERFACE OR OTHER
7 TECHNICAL CAPABILITY, CHOSEN BY THE PROVIDER, TO ENABLE
8 LEGITIMATE, INDEPENDENT, AND REASONABLE TESTS OF THE FACIAL
9 RECOGNITION SERVICE FOR ACCURACY AND TO IDENTIFY UNFAIR
10 PERFORMANCE DIFFERENCES ACROSS DISTINCT SUBPOPULATIONS,
11 INCLUDING SUBPOPULATIONS THAT ARE DEFINED BY VISUALLY
12 DETECTABLE CHARACTERISTICS SUCH AS:

13 (I) RACE, SKIN TONE, ETHNICITY, GENDER, AGE, OR DISABILITY
14 STATUS; OR

15 (II) OTHER PROTECTED CHARACTERISTICS THAT ARE OBJECTIVELY
16 DETERMINABLE OR SELF-IDENTIFIED BY THE INDIVIDUALS PORTRAYED IN
17 THE TESTING DATASET.

18 (b) IF THE RESULTS OF INDEPENDENT TESTING IDENTIFY MATERIAL
19 UNFAIR PERFORMANCE DIFFERENCES ACROSS SUBPOPULATIONS, THE
20 PROVIDER MUST DEVELOP AND IMPLEMENT A PLAN TO MITIGATE THE
21 IDENTIFIED PERFORMANCE DIFFERENCES WITHIN NINETY DAYS AFTER
22 RECEIPT OF THE RESULTS.

23 (c) SUBSECTION (2)(a) OF THIS SECTION DOES NOT REQUIRE A
24 PROVIDER TO DISCLOSE PROPRIETARY MATERIAL OR MAKE AVAILABLE AN
25 APPLICATION PROGRAMMING INTERFACE OR OTHER TECHNICAL
26 CAPABILITY IN A MANNER THAT WOULD INCREASE THE RISK OF CYBER
27 ATTACKS. PROVIDERS BEAR THE BURDEN OF MINIMIZING THESE RISKS

1 WHEN MAKING AN APPLICATION PROGRAMMING INTERFACE OR OTHER
2 TECHNICAL CAPABILITY AVAILABLE FOR TESTING PURPOSES.

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

6 **24-18-305. Use of facial recognition service - training of users**
7 **required.** (1) AN AGENCY USING A FACIAL RECOGNITION SERVICE MUST
8 CONDUCT PERIODIC TRAINING OF ALL INDIVIDUALS WHO OPERATE A
9 FACIAL RECOGNITION SERVICE OR WHO PROCESS PERSONAL DATA
10 OBTAINED FROM THE USE OF A FACIAL RECOGNITION SERVICE.

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

13 (a) THE CAPABILITIES AND LIMITATIONS OF THE FACIAL
14 RECOGNITION SERVICE;

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

17 (c) TO THE EXTENT APPLICABLE TO THE DEPLOYMENT CONTEXT,
18 THE MEANINGFUL HUMAN REVIEW REQUIREMENT FOR DECISIONS THAT
19 PRODUCE LEGAL EFFECTS CONCERNING INDIVIDUALS OR SIMILARLY
20 SIGNIFICANT EFFECTS CONCERNING INDIVIDUALS.

21 **24-18-306. Use of facial recognition service - record keeping**
22 **required.** AN AGENCY USING A FACIAL RECOGNITION SERVICE SHALL
23 MAINTAIN RECORDS OF ITS USE OF THE SERVICE THAT ARE SUFFICIENT TO
24 FACILITATE PUBLIC REPORTING AND AUDITING OF COMPLIANCE WITH THE
25 AGENCY'S USE AND DATA MANAGEMENT POLICIES DEVELOPED AS PART OF
26 THE AGENCY'S ACCOUNTABILITY REPORT PURSUANT TO SECTION
27 24-18-302 (2)(d).

1 **24-18-307. Use of facial recognition service by law**
2 **enforcement agencies - surveillance and tracking - prohibited uses -**

3 **warrants.** (1) A LAW ENFORCEMENT AGENCY SHALL NOT USE A FACIAL
4 RECOGNITION SERVICE TO ENGAGE IN ONGOING SURVEILLANCE, CONDUCT
5 REAL-TIME OR NEAR REAL-TIME IDENTIFICATION, OR START PERSISTENT
6 TRACKING UNLESS:

7 (a) THE LAW ENFORCEMENT AGENCY OBTAINS A WARRANT
8 AUTHORIZING SUCH USE;

9 (b) EXIGENT CIRCUMSTANCES EXIST; OR

10 (c) THE LAW ENFORCEMENT AGENCY OBTAINS A COURT ORDER
11 AUTHORIZING THE USE OF THE SERVICE FOR THE SOLE PURPOSE OF
12 LOCATING OR IDENTIFYING A MISSING PERSON OR IDENTIFYING A
13 DECEASED PERSON. A COURT MAY ISSUE AN EX PARTE ORDER UNDER THIS
14 SUBSECTION (1)(c) IF A LAW ENFORCEMENT OFFICER CERTIFIES AND THE
15 COURT FINDS THAT THE INFORMATION LIKELY TO BE OBTAINED IS
16 RELEVANT TO LOCATING OR IDENTIFYING A MISSING PERSON OR
17 IDENTIFYING A DECEASED PERSON.

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

26 (3) A LAW ENFORCEMENT AGENCY SHALL NOT USE A FACIAL
27 RECOGNITION SERVICE TO CREATE A RECORD DEPICTING ANY INDIVIDUAL'S

1 EXERCISE OF RIGHTS GUARANTEED BY THE FIRST AMENDMENT OF THE
2 UNITED STATES CONSTITUTION AND BY SECTION 10 OF ARTICLE II OF THE
3 STATE CONSTITUTION.

4 (4) A LAW ENFORCEMENT AGENCY SHALL NOT USE THE RESULTS
5 OF A FACIAL RECOGNITION SERVICE AS THE SOLE BASIS TO ESTABLISH
6 PROBABLE CAUSE IN A CRIMINAL INVESTIGATION. THE RESULTS OF A
7 FACIAL RECOGNITION SERVICE MAY BE USED IN CONJUNCTION WITH OTHER
8 INFORMATION AND EVIDENCE LAWFULLY OBTAINED BY A LAW
9 ENFORCEMENT OFFICER TO ESTABLISH PROBABLE CAUSE IN A CRIMINAL
10 INVESTIGATION.

11 (5) A LAW ENFORCEMENT AGENCY SHALL NOT USE A FACIAL
12 RECOGNITION SERVICE TO IDENTIFY AN INDIVIDUAL BASED ON A SKETCH
13 OR OTHER MANUALLY PRODUCED IMAGE.

14 (6) A LAW ENFORCEMENT AGENCY SHALL NOT SUBSTANTIVELY
15 MANIPULATE AN IMAGE FOR USE IN A FACIAL RECOGNITION SERVICE IN A
16 MANNER NOT CONSISTENT WITH THE FACIAL RECOGNITION SERVICE
17 PROVIDER'S INTENDED USE AND TRAINING.

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

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

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

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

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

6 (d) THE IDENTITY OF THE APPLYING INVESTIGATIVE OR LAW
7 ENFORCEMENT OFFICER AND AGENCY MAKING THE APPLICATION AND THE
8 PERSON AUTHORIZING THE APPLICATION; AND

9 (e) THE NATURE OF THE PUBLIC SPACES WHERE THE SURVEILLANCE
10 WAS CONDUCTED.

11 (3) IN JANUARY OF EACH YEAR, ANY AGENCY THAT HAS APPLIED
12 FOR A WARRANT OR AN EXTENSION OF A WARRANT FOR THE USE OF A
13 FACIAL RECOGNITION SERVICE TO ENGAGE IN ANY SURVEILLANCE AS
14 DESCRIBED IN SECTION 24-18-307 SHALL PROVIDE TO THE AGENCY'S
15 REPORTING AUTHORITY A REPORT SUMMARIZING NONIDENTIFYING
16 DEMOGRAPHIC DATA OF INDIVIDUALS NAMED IN WARRANT APPLICATIONS
17 AS SUBJECTS OF SURVEILLANCE WITH THE USE OF A FACIAL RECOGNITION
18 SERVICE.

19 **24-18-309. Use of facial recognition service - applicability and**
20 **exemptions.** (1) THIS PART 3 DOES NOT APPLY TO:

21 (a) AN AGENCY THAT:

22 (I) IS REQUIRED TO USE A SPECIFIC FACIAL RECOGNITION SERVICE
23 PURSUANT TO A FEDERAL REGULATION OR ORDER, OR THAT USES A FACIAL
24 RECOGNITION SERVICE IN PARTNERSHIP WITH A FEDERAL AGENCY TO
25 FULFILL A CONGRESSIONAL MANDATE; OR

26 (II) USES A FACIAL RECOGNITION SERVICE IN ASSOCIATION WITH
27 A FEDERAL AGENCY TO VERIFY THE IDENTITY OF INDIVIDUALS PRESENTING

1 THEMSELVES FOR TRAVEL AT AN AIRPORT; OR

2 (b) THE USE OF A FACIAL RECOGNITION SERVICE SOLELY FOR
3 RESEARCH PURPOSES BY A STATE AGENCY OR BY AN INSTITUTION OF
4 HIGHER EDUCATION SO LONG AS THE USE DOES NOT RESULT IN OR AFFECT
5 ANY DECISIONS THAT PRODUCE LEGAL EFFECTS CONCERNING INDIVIDUALS
6 OR SIMILARLY SIGNIFICANT EFFECTS CONCERNING INDIVIDUALS.

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

9 **22-32-150. Use of facial recognition service by schools**
10 **prohibited - definition - repeal.** (1) THE USE OF A FACIAL RECOGNITION
11 SERVICE BY A SCHOOL OR A CHARTER SCHOOL OF A SCHOOL DISTRICT IS
12 PROHIBITED.

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

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

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

18 **22-30.5-529. Institute charter schools - use of facial**
19 **recognition service prohibited - definition - repeal.** (1) THE USE OF A
20 FACIAL RECOGNITION SERVICE BY AN INSTITUTE CHARTER SCHOOL IS
21 PROHIBITED.

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

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

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

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

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

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

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

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

21 **24-37-101. Definitions.** As used in this ~~article~~ ARTICLE 37, unless
22 the context otherwise requires:

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

26 **SECTION 10. 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.