

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0676.01 Richard Sweetman x4333

SENATE BILL 22-113

SENATE SPONSORSHIP

Hansen and Buckner,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology
Appropriations

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

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.

SENATE
Amended 2nd Reading
March 4, 2022

Section 1 of the bill creates a task force for the consideration of artificial intelligence (task force) and requires the task force to:

- Study issues relating to the use of artificial intelligence; and
- Submit a report on or before October 1, 2023, and on or before each October 1 thereafter, to the joint technology committee.

Section 2 repeals the task force, effective September 1, 2032, subject to a sunset review by the department of regulatory agencies.

Section 3 adds new definitions of terms and renumbers existing definitions.

Section 4 requires a state or local government agency (agency) that uses or intends to develop, procure, or use a facial recognition service (FRS) to file with a reporting authority a notice of intent to develop, procure, or use the FRS and specify a purpose for which the technology is to be used. After filing the notice of intent, the agency must produce an accountability report that includes certain information and policies regarding the proposed use of the FRS. The bill establishes requirements for the adoption, implementation, and updating of accountability reports.

Section 4 also requires an agency using an FRS to subject to meaningful human review any decisions that result from such use and produce legal effects concerning individuals or similarly significant effects concerning individuals. An agency must test the FRS in operational conditions before deploying the FRS in a context in which it will be used to make such decisions.

An agency using an FRS must conduct periodic training of all individuals who operate the FRS or who process personal data obtained from the FRS. An agency must maintain records that are sufficient to facilitate public reporting and auditing of compliance with the agency's facial recognition policies.

Section 4 also prohibits a law enforcement agency (LEA) from:

- Using an FRS to engage in ongoing surveillance, conduct real-time or near real-time identification, or start persistent tracking unless the LEA obtains a warrant authorizing such use, exigent circumstances exist, or the LEA obtains a court order authorizing the use of the service for the sole purpose of locating or identifying a missing person or identifying a deceased person;
- Applying an FRS to any individual based on the individual's religious, political, or social views or activities or any other characteristic protected by law;
- Using an FRS to create a record depicting any individual's exercise of rights guaranteed by the first amendment of the United States constitution and by section 10 of article II of the Colorado constitution;

- Using the results of an FRS as the sole basis to establish probable cause in a criminal investigation;
- Using an FRS to identify an individual based on a sketch or other manually produced image; or
- Substantively manipulating an image for use in an FRS in a manner not consistent with the FRS provider's intended use and training.

An agency must disclose its use of an FRS on a criminal defendant to that defendant in a timely manner prior to trial. In January of each year:

- Any judge who has issued or extended a warrant for the use of an FRS during the preceding year, or who has denied approval of such a warrant during that year, must report certain information to the state court administrator; and
- Any agency that has applied for a warrant or an extension of a warrant for the use of an FRS to engage in any surveillance must provide to the agency's reporting authority a report summarizing nonidentifying demographic data of individuals named in warrant applications as subjects of surveillance.

Sections 5 and 6 prohibit the use of facial recognition services by any public school, charter school, or institute charter school until January 1, 2025.

Section 7 states that an individual may authorize an agent to access and process the individual's personal data or other information held by a controller and that is otherwise accessible to the individual, and such an authorization does not constitute cybercrime.

Sections 8 and 9 make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 2-3-1707 as
3 follows:

4 **2-3-1707. Task force for the consideration of artificial**
5 **intelligence - creation - membership - duties - compensation - staff**
6 **support - repeal. (1) Creation. (a) THERE IS CREATED A TASK FORCE**
7 **FOR THE CONSIDERATION OF ARTIFICIAL INTELLIGENCE. THE TASK FORCE**
8 **CONSISTS OF MEMBERS APPOINTED AS PROVIDED IN SUBSECTION (1)(b) OF**
9 **THIS SECTION.**

10 _____ (b) THE TASK FORCE INCLUDES THE FOLLOWING

1 TWENTY-ONE MEMBERS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (a) MEET ON OR BEFORE OCTOBER 1, 2022, AT A TIME AND PLACE
17 TO BE DETERMINED BY THE CHAIR OF THE TASK FORCE;

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

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

23 (d) CREATE SUBCOMMITTEES AS NEEDED TO CARRY OUT THE
24 DUTIES OF THE TASK FORCE. THE SUBCOMMITTEES MAY CONSIST, IN PART,
25 OF PERSONS WHO ARE NOT MEMBERS OF THE TASK FORCE. SUCH PERSONS
26 MAY VOTE ON ISSUES BEFORE THE SUBCOMMITTEE BUT ARE NOT ENTITLED
27 TO VOTE AT MEETINGS OF THE TASK FORCE.

1 (e) SUBMIT A REPORT TO THE COMMITTEE ON OR BEFORE OCTOBER
2 1, 2023, AND ON OR BEFORE EACH OCTOBER 1 THEREAFTER, THAT, AT A
3 MINIMUM, SPECIFIES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 destroyed or deleted, in digital form or otherwise.

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

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

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

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

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

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

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

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

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

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

19 **PART 3**

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

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

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

26 (2) "AGENCY" MEANS:

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

1 GOVERNMENT; OR

2 (b) A STATE INSTITUTION OF HIGHER EDUCATION.

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

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

10 OR

11 (b) IMPACT THE CIVIL RIGHTS OF INDIVIDUALS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ONE OR MORE PUBLIC PLACES.

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

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

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

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

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

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

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

24 (14) "REPORTING AUTHORITY" MEANS:

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

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

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

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

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

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

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

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

1 SERVICE USES;

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

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

4 REASONABLY LIKELY TO GENERATE;

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

6 FACIAL RECOGNITION SERVICE, INCLUDING:

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

8 FACIAL RECOGNITION SERVICE; AND

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

10 ANY DATA OR RESEARCH DEMONSTRATING THOSE BENEFITS;

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

12 PROTOCOLS FOR THE FOLLOWING:

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

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

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

16 TECHNOLOGY IS DEPLOYED; AND OTHER RELEVANT INFORMATION, SUCH

17 AS WHETHER THE TECHNOLOGY WILL BE OPERATED CONTINUOUSLY OR

18 USED ONLY UNDER SPECIFIC CIRCUMSTANCES;

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

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

21 ENTITY'S ACCESS AND ANY APPLICABLE PROTOCOLS;

22 (III) ANY MEASURES TAKEN TO MINIMIZE INADVERTENT

23 COLLECTION OF ADDITIONAL DATA BEYOND THE AMOUNT NECESSARY FOR

24 THE SPECIFIC PURPOSE FOR WHICH THE FACIAL RECOGNITION SERVICE WILL

25 BE USED;

26 (IV) DATA INTEGRITY AND RETENTION POLICIES APPLICABLE TO

27 THE DATA COLLECTED USING THE FACIAL RECOGNITION SERVICE,

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

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

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

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

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

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

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

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

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

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

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

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

- 18 (a) ALLOW FOR A PUBLIC REVIEW AND COMMENT PERIOD;
- 19 (b) HOLD AT LEAST THREE PUBLIC MEETINGS TO OBTAIN FEEDBACK
20 FROM COMMUNITIES; AND
- 21 (c) CONSIDER THE ISSUES RAISED BY THE PUBLIC THROUGH THE
22 PUBLIC MEETINGS.

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

1 ACCOUNTABILITY REPORT ON ITS PUBLIC WEBSITE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) EXIGENT CIRCUMSTANCES EXIST;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) AN AGENCY THAT:

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

18 (II) USES A FACIAL RECOGNITION SERVICE IN ASSOCIATION WITH
19 A FEDERAL AGENCY TO VERIFY THE IDENTITY OF INDIVIDUALS PRESENTING
20 THEMSELVES FOR TRAVEL AT AN AIRPORT; OR

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

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

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

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

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

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

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

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

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

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

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

1 AND OTHER PROVISIONS OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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