

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-1026.02 Jed Franklin x5484

HOUSE BILL 23-1306

HOUSE SPONSORSHIP

Herod and Soper,

SENATE SPONSORSHIP

(None),

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF SOCIAL MEDIA ADMINISTERED BY AN**
102 **ELECTED OFFICIAL THAT IS NOT SUPPORTED BY GOVERNMENT**
103 **RESOURCES, AND, IN CONNECTION THEREWITH, ALLOWING AN**
104 **ELECTED OFFICIAL TO RESTRICT OR BAR AN INDIVIDUAL FROM**
105 **USING THE SOCIAL MEDIA ADMINISTERED BY THE ELECTED**
106 **OFFICIAL FOR ANY REASON INCLUDING ATTEMPTING TO CHILL**
107 **THE SPEECH OF ANOTHER INDIVIDUAL.**

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>.)

The bill allows an elected official in the state to restrict or bar an individual from using private social media that is being administered by

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.

the elected official for any reason, including bullying, harassment, or intimidation, in the elected official's discretion.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 18.3 of
3 title 24 as follows:

4 **ARTICLE 18.3**

5 **Social Media Civility**

6 **24-18.3-101. Bullying, harassment, and intimidation - state**
7 **elected official - social media - legislative declaration - definitions.**

8 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PRIVATE
9 SOCIAL MEDIA ADMINISTERED BY A STATE ELECTED OFFICIAL OR DESIGNEE
10 IS NOT PUBLIC PROPERTY AND DOES NOT CREATE AN UNLIMITED PUBLIC
11 FORUM;

12 (b) THEREFORE, THE GENERAL ASSEMBLY DETERMINES THAT IT IS
13 APPROPRIATE TO ACKNOWLEDGE IN LAW THAT A STATE ELECTED OFFICIAL
14 OR DESIGNEE HAS DISCRETION TO RESTRICT OR REMOVE A USER OF
15 PRIVATE SOCIAL MEDIA THAT IS ADMINISTERED BY THE STATE ELECTED
16 OFFICIAL OR DESIGNEE FOR ANY REASON, INCLUDING BULLYING,
17 HARASSMENT OR INTIMIDATION OF OTHER USERS OF THE PRIVATE SOCIAL
18 MEDIA ADMINISTERED BY THE STATE ELECTED OFFICIAL OR DESIGNEE.

19 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "BULLYING" MEANS INTENDING TO COERCE OR CAUSE ANY
22 PHYSICAL, MENTAL, OR EMOTIONAL HARM TO ANY INDIVIDUAL BY
23 WRITTEN EXPRESSION, AN ELECTRONIC ACT OR GESTURE, OR A PATTERN OF
24 BEHAVIOR.

25 (b) "HARASSMENT" MEANS:

1 (I) DIRECTLY OR INDIRECTLY INITIATING COMMUNICATION WITH
2 AN INDIVIDUAL OR DIRECTING LANGUAGE TOWARD ANOTHER INDIVIDUAL,
3 ANONYMOUSLY OR OTHERWISE, BY DATA NETWORK, INSTANT MESSAGE,
4 COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR ANY OTHER
5 INTERACTIVE ELECTRONIC MEDIUM IN A MANNER INTENDED TO ALARM OR
6 CAUSE SUBSTANTIAL EMOTIONAL DISTRESS OR THREATEN BODILY INJURY
7 OR PROPERTY DAMAGE; OR

8 (II) MAKING ANY OBSCENE COMMENT, SUGGESTION, REQUEST, OR
9 PROPOSAL BY COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR
10 ANY OTHER ELECTRONIC MEDIUM.

11 (c) "INTIMIDATION" MEANS DIRECTLY OR INDIRECTLY INFLECTING
12 OR THREATENING THE INFLECTION OF ANY INJURY, DAMAGE, HARM, OR
13 LOSS UPON AN INDIVIDUAL.

14 (d) "OBSCENE" MEANS A PATENTLY OFFENSIVE DESCRIPTION OF
15 SEXUAL ACTS OR SOLICITATION TO COMMIT SEXUAL ACTS.

16 (e) "PRIVATE SOCIAL MEDIA" MEANS SOCIAL MEDIA THAT IS NOT
17 SUPPORTED BY THE RESOURCES OF THE STATE GOVERNMENT AND IS NOT
18 OTHERWISE PUBLICLY FUNDED.

19 (f) "SOCIAL MEDIA" MEANS ANY ELECTRONIC MEDIUM, INCLUDING
20 AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK, OR DATA
21 NETWORK THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
22 USER-GENERATED CONTENT INCLUDING VIDEOS, STILL PHOTOGRAPHS,
23 BLOGS, VIDEO BLOGS, PODCASTS, INSTANT MESSAGES, ELECTRONIC MAIL,
24 OR INTERNET WEBSITE PROFILES.

25 (g) "STATE ELECTED OFFICIAL" MEANS AN INDIVIDUAL SERVING IN
26 AN ELECTED POSITION IN THE STATE GOVERNMENT.

27 (3) A STATE ELECTED OFFICIAL MAY PERMANENTLY OR

1 TEMPORARILY RESTRICT OR BAR AN INDIVIDUAL FROM USING THE PRIVATE
2 SOCIAL MEDIA THAT IS ADMINISTERED BY A STATE ELECTED OFFICIAL OR
3 THEIR DESIGNEE FOR ANY REASON, INCLUDING BULLYING, HARASSMENT,
4 OR INTIMIDATION, IN THE STATE ELECTED OFFICIAL'S SOLE DISCRETION.

5 (4) THIS SECTION IS NOT INTENDED TO INFRINGE UPON ANY RIGHT
6 GUARANTEED TO ANY INDIVIDUAL BY THE FIRST AMENDMENT TO THE
7 UNITED STATES CONSTITUTION OR SECTION 10 OF ARTICLE II OF THE
8 COLORADO CONSTITUTION OR TO PREVENT THE EXPRESSION OF ANY
9 RELIGIOUS, POLITICAL, OR PHILOSOPHICAL VIEWS.

10 **SECTION 2.** In Colorado Revised Statutes, **add** 29-32-101 as
11 follows:

12 **ARTICLE 32**

13 **Social Media Civility**

14 **29-32-101. Bullying, harassment, and intimidation - local**
15 **elected official - social media - legislative declaration - definitions.**

16 (1)(a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PRIVATE
17 SOCIAL MEDIA ADMINISTERED BY A LOCAL ELECTED OFFICIAL OR DESIGNEE
18 IS NOT PUBLIC PROPERTY AND DOES NOT CREATE AN UNLIMITED PUBLIC
19 FORUM;

20 (b) THEREFORE, THE GENERAL ASSEMBLY DETERMINES THAT IT IS
21 APPROPRIATE TO ACKNOWLEDGE IN LAW THAT A LOCAL ELECTED OFFICIAL
22 OR DESIGNEE HAS DISCRETION TO RESTRICT OR REMOVE A USER OF
23 PRIVATE SOCIAL MEDIA THAT IS ADMINISTERED BY THE LOCAL ELECTED
24 OFFICIAL OR DESIGNEE FOR ANY REASON, INCLUDING BULLYING,
25 HARASSMENT, OR INTIMIDATION OF OTHER USERS OF THE PRIVATE SOCIAL
26 MEDIA ADMINISTERED BY THE LOCAL ELECTED OFFICIAL OR DESIGNEE.

27 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (a) "BULLYING" MEANS INTENDING TO COERCE OR CAUSE ANY
3 PHYSICAL, MENTAL, OR EMOTIONAL HARM TO ANY INDIVIDUAL BY
4 WRITTEN EXPRESSION, AN ELECTRONIC ACT OR GESTURE, OR A PATTERN OF
5 BEHAVIOR.

6 (b) "HARASSMENT" MEANS:

7 (I) DIRECTLY OR INDIRECTLY INITIATING COMMUNICATION WITH
8 AN INDIVIDUAL OR DIRECTING LANGUAGE TOWARD ANOTHER INDIVIDUAL,
9 ANONYMOUSLY OR OTHERWISE, BY DATA NETWORK, INSTANT MESSAGE,
10 COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR ANY OTHER
11 INTERACTIVE ELECTRONIC MEDIUM IN A MANNER INTENDED TO ALARM OR
12 CAUSE SUBSTANTIAL EMOTIONAL DISTRESS OR THREATEN BODILY INJURY
13 OR PROPERTY DAMAGE; OR

14 (II) MAKING ANY OBSCENE COMMENT, SUGGESTION, REQUEST, OR
15 PROPOSAL BY COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR
16 ANY OTHER ELECTRONIC MEDIUM.

17 (c) "INTIMIDATION" MEANS DIRECTLY OR INDIRECTLY INFLICTING
18 OR THREATENING THE INFLICTION OF ANY INJURY, DAMAGE, HARM, OR
19 LOSS UPON AN INDIVIDUAL.

20 (d) "LOCAL ELECTED OFFICIAL" MEANS AN INDIVIDUAL SERVING IN
21 AN ELECTED POSITION IN THE STATE WHO IS NOT A STATE ELECTED
22 OFFICIAL, AS DEFINED IN SECTION 24-18.3-101 (2)(g).

23 (e) "OBSCENE" MEANS A PATENTLY OFFENSIVE DESCRIPTION OF
24 SEXUAL ACTS OR SOLICITATION TO COMMIT SEXUAL ACTS.

25 (f) "PRIVATE SOCIAL MEDIA" MEANS SOCIAL MEDIA THAT IS NOT
26 SUPPORTED BY THE RESOURCES OF A LOCAL GOVERNMENT AND IS NOT
27 OTHERWISE PUBLICLY FUNDED.

1 (g) "SOCIAL MEDIA" MEANS ANY ELECTRONIC MEDIUM, INCLUDING
2 AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK, OR DATA
3 NETWORK THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
4 USER-GENERATED CONTENT INCLUDING VIDEOS, STILL PHOTOGRAPHS,
5 BLOGS, VIDEO BLOGS, PODCASTS, INSTANT MESSAGES, ELECTRONIC MAIL,
6 OR INTERNET WEBSITE PROFILES.

7 (3) A LOCAL ELECTED OFFICIAL MAY PERMANENTLY OR
8 TEMPORARILY RESTRICT OR BAR AN INDIVIDUAL FROM USING THE PRIVATE
9 SOCIAL MEDIA THAT IS ADMINISTERED BY THE LOCAL ELECTED OFFICIAL
10 OR THEIR DESIGNEE FOR ANY REASON, INCLUDING BULLYING,
11 HARASSMENT, OR INTIMIDATION, IN THE LOCAL ELECTED OFFICIAL'S SOLE
12 DISCRETION.

13 (4) THIS SECTION IS NOT INTENDED TO INFRINGE UPON ANY RIGHT
14 GUARANTEED TO ANY INDIVIDUAL BY THE FIRST AMENDMENT TO THE
15 UNITED STATES CONSTITUTION OR SECTION 10 OF ARTICLE II OF THE
16 COLORADO CONSTITUTION OR TO PREVENT THE EXPRESSION OF ANY
17 RELIGIOUS, POLITICAL, OR PHILOSOPHICAL VIEWS.

18 **SECTION 3. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.