Second Regular Session Seventy-fourth General Assembly STATE OF COLORADO

INTRODUCED

LLS NO. 24-0667.03 Christy Chase x2008

SENATE BILL 24-041

SENATE SPONSORSHIP

Rodriguez and Lundeen,

HOUSE SPONSORSHIP

(None),

Senate CommitteesBusiness, Labor, & Technology

101

102

House Committees

A BILL FOR AN ACT

CONCERNING ADDING DATA PROTECTIONS FOR A MINOR'S ONLINE ACTIVITY.

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 amends the "Colorado Privacy Act" to add enhanced protections when a minor's data is processed and there is a heightened risk of harm to the minor. The bill applies to any entity that controls consumer personal data (controller) and that conducts business in Colorado or delivers products or services that are targeted at Colorado residents, regardless of the volume of or amount of revenue derived from that

activity.

A controller that offers an online service, product, or feature to a consumer that the controller knows or willfully disregards is a minor is required to:

- Use reasonable care to avoid any heightened risk of harm to minors caused by the service, product, or feature; and
- Conduct, and review as necessary, a data protection assessment for the service, product, or feature and maintain documentation regarding the assessment for a specified period.

Unless the minor or, for a minor who is under 13 years of age, the minor's parent or legal guardian has consented, a controller is prohibited from processing a minor's personal data:

- For targeted advertising, selling the minor's personal data, or profiling the minor's personal data;
- For any processing purpose other than the purpose disclosed at the time the minor's personal data is collected or a purpose reasonably necessary for the disclosed processing purpose; or
- For longer than reasonably necessary to provide the service, product, or feature.

A controller is also prohibited from:

- Using a system design feature to significantly increase, sustain, or extend a minor's use of the service, product, or feature; or
- Collecting a minor's precise geolocation, except under specified circumstances.

The attorney general and district attorneys are authorized to enforce the requirements of the bill in the same manner as authorized under the "Colorado Privacy Act", including notifying a controller of, and allowing a controller time to cure, a violation.

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

2 SECTION 1. In Colorado Revised Statutes, 6-1-1302, amend

3 (1)(a)(III), (1)(a)(V), (1)(b)(II), and (1)(c)(I); and add (1)(c)(II)(A.5) as

4 follows:

5 **6-1-1302.** Legislative declaration. (1) The general assembly

6 hereby:

7 (a) Finds that:

-2- SB24-041

1	(III) Ongoing advances in technology have produced exponential
2	growth in the volume and variety of personal data FROM INDIVIDUALS,
3	INCLUDING MINORS, being generated, collected, stored, and analyzed and
4	these advances present both promise and potential peril;
5	(V) The unauthorized disclosure of personal information,
6	INCLUDING A MINOR'S PERSONAL INFORMATION, and loss of privacy can
7	have devastating impacts ranging from financial fraud, identity theft, and
8	unnecessary costs in personal time and finances to destruction of
9	property, harassment, reputational damage, emotional distress, and
10	physical harm;
11	(b) Determines that:
12	(II) States across the United States are looking to this part 13 and
13	similar models to enact state-based data privacy requirements, INCLUDING
14	DATA PRIVACY REQUIREMENTS SPECIFICALLY TARGETED AT MINORS'
15	DATA, and to exercise the leadership that is lacking at the national level;
16	and
17	(c) Declares that:
18	(I) By enacting this part 13, Colorado will be among the states that
19	empower consumers, INCLUDING MINORS, to protect their privacy and
20	require companies to be responsible custodians of data as they continue
21	to innovate;
22	(II) This part 13 addresses issues of statewide concern and:
23	$(A.5)\ Provides\ minors\ the\ right\ to\ control\ their\ personal$
24	DATA;
25	SECTION 2. In Colorado Revised Statutes, 6-1-1303, amend (1)
26	and (25); and add (1.5), (14.5), (16.5), (16.7), and (17.5) as follows:
27	6-1-1303. Definitions. As used in this part 13, unless the context

-3- SB24-041

1	otherwise requires:
2	(1) "Affiliate" means a legal entity that controls, is controlled by,
3	or is under common control with another legal entity. As used in this
4	subsection (1), "control" means:
5	(a) Ownership of, control of, or power to vote twenty-five percent
6	or more of the outstanding shares of any class of voting security of the
7	entity, directly or indirectly, or acting through one or more other persons;
8	(b) Control in any manner over the election of a majority of the
9	directors, trustees, or general partners of the entity or of individuals
10	exercising similar functions; or
11	(c) The power to exercise, directly or indirectly, a controlling
12	influence over the management or policies of the entity as determined by
13	the applicable prudential regulator, as that term is defined in 12 U.S.C.
14	sec. 5481 (24), if any "Adult" means an individual who is eighteen
15	YEARS OF AGE OR OLDER.
16	(1.5) (a) "Affiliate" means a legal entity that controls, is
17	CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER LEGAL
18	ENTITY.
19	(b) As used in subsection (1.5)(a) of this section, "control"
20	MEANS:
21	(I) OWNERSHIP OF, CONTROL OF, OR POWER TO VOTE TWENTY-FIVE
22	PERCENT OR MORE OF THE OUTSTANDING SHARES OF ANY CLASS OF
23	VOTING SECURITY OF THE ENTITY, DIRECTLY OR INDIRECTLY, OR ACTING
24	THROUGH ONE OR MORE OTHER PERSONS;
25	(II) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY
26	OF THE DIRECTORS, TRUSTEES, OR GENERAL PARTNERS OF THE ENTITY OR
27	OF INDIVIDUALS EXERCISING SIMILAR FUNCTIONS; OR

-4- SB24-041

1	(III) THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A
2	CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF THE
3	ENTITY AS DETERMINED BY THE APPLICABLE PRUDENTIAL REGULATOR, AS
4	THAT TERM IS DEFINED IN 12 U.S.C. SEC. 5481 (24), IF ANY.
5	(14.5) "Heightened risk of harm to a minor" means
6	PROCESSING THE PERSONAL DATA OF A MINOR IN A MANNER THAT
7	PRESENTS ANY REASONABLY FORESEEABLE RISK OF:
8	(a) ANY UNFAIR OR DECEPTIVE TREATMENT OF, OR ANY UNLAWFUL
9	DISPARATE IMPACT ON, A MINOR;
10	(b) ANY FINANCIAL, PHYSICAL, MENTAL, EMOTIONAL, OR
11	REPUTATIONAL INJURY TO A MINOR;
12	(c) ANY UNINTENDED DISCLOSURE OF THE PERSONAL
13	INFORMATION OF A MINOR; OR
14	(d) ANY PHYSICAL OR OTHER INTRUSION UPON THE SOLITUDE OR
15	SECLUSION, OR THE PRIVATE AFFAIRS OR CONCERNS, OF A MINOR IF THE
16	INTRUSION WOULD BE OFFENSIVE TO A REASONABLE PERSON.
17	(16.5) "MINOR" MEANS ANY CONSUMER WHO IS UNDER EIGHTEEN
18	YEARS OF AGE.
19	(16.7) "Online service, product, or feature":
20	(a) Means any service, product, or feature that is
21	PROVIDED ONLINE; AND
22	(b) Does not include:
23	(I) TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47 U.S.C. SEC.
24	153 (53), AS AMENDED;
25	(II) Broadband internet access service, as defined in 47
26	CFR 54.400 (1), AS AMENDED; OR
27	(III) THE DELIVERY OR USE OF A PHYSICAL PRODUCT.

-5- SB24-041

1	(17.5) "PRECISE GEOLOCATION DATA":
2	(a) MEANS INFORMATION DERIVED FROM TECHNOLOGY, INCLUDING
3	GLOBAL POSITIONING SYSTEM LEVEL LATITUDE AND LONGITUDE
4	COORDINATES OR OTHER MECHANISMS, THAT DIRECTLY IDENTIFIES THE
5	SPECIFIC LOCATION OF AN INDIVIDUAL WITH PRECISION AND ACCURACY
6	WITHIN A RADIUS OF ONE THOUSAND SEVEN HUNDRED FIFTY FEET; AND
7	(b) Does not include the content of communications or
8	ANY DATA GENERATED BY OR CONNECTED TO ADVANCED UTILITY
9	METERING INFRASTRUCTURE SYSTEMS OR EQUIPMENT FOR USE BY A
10	UTILITY.
11	(25) (a) "Targeted advertising":
12	(a) (I) Means, EXCEPT AS PROVIDED IN SUBSECTION (25)(a)(II) OF
13	THIS SECTION, displaying to a consumer an advertisement that is selected
14	based on personal data obtained or inferred over time from the consumer's
15	activities across nonaffiliated websites, applications, or online services to
16	predict consumer preferences or interests; and
17	(II) Means, as used in section 6-1-1308.5, displaying to a
18	MINOR AN ADVERTISEMENT THAT IS SELECTED BASED ON PERSONAL DATA
19	OBTAINED OR INFERRED FROM THE MINOR'S ACTIVITIES OR FROM THE
20	ACTIVITIES OF OTHER MINORS ACROSS AFFILIATED AND NONAFFILIATED
21	WEBSITES, APPLICATIONS, OR ONLINE SERVICES TO PREDICT MINOR
22	PREFERENCES OR INTERESTS.
23	(b) "TARGETED ADVERTISING" does not include:
24	(I) Advertising to a consumer in response to the consumer's
25	request for information or feedback;
26	(II) Advertisements based on activities within a controller's own
27	websites or online applications;

-6- SB24-041

1	(III) Advertisements based on the context of a consumer's current
2	search query, visit to a website, or online application; or
3	(IV) Processing personal data solely for measuring or reporting
4	advertising performance, reach, or frequency.
5	SECTION 3. In Colorado Revised Statutes, 6-1-1304, amend (1)
6	as follows:
7	6-1-1304. Applicability of part. (1) Except as specified in
8	subsection (2) of this section:
9	(a) This part 13, OTHER THAN SECTIONS 6-1-1305.5, 6-1-1308.5,
10	AND 6-1-1309.5, applies to a controller that:
11	(a) (I) Conducts business in Colorado or produces or delivers
12	commercial products or services that are intentionally targeted to
13	residents of Colorado; and
14	(b) (II) Satisfies one or both of the following thresholds:
15	(I) (A) Controls or processes the personal data of one hundred
16	thousand consumers or more during a calendar year; or
17	(H) (B) Derives revenue or receives a discount on the price of
18	goods or services from the sale of personal data and processes or controls
19	the personal data of twenty-five thousand consumers or more; AND
20	(b) SECTIONS 6-1-1305.5, 6-1-1308.5, AND 6-1-1309.5 TO
21	6-1-1313 APPLY TO A CONTROLLER THAT CONDUCTS BUSINESS IN
22	COLORADO OR DELIVERS COMMERCIAL PRODUCTS OR SERVICES THAT ARE
23	INTENTIONALLY TARGETED TO RESIDENTS OF COLORADO.
24	SECTION 4. In Colorado Revised Statutes, add 6-1-1305.5,
25	6-1-1308.5, and 6-1-1309.5 as follows:
26	6-1-1305.5. Responsibility according to role - processing data
27	of minors. (1) A PROCESSOR SHALL ADHERE TO THE INSTRUCTIONS OF A

-7- SB24-041

1	CONTROLLER AND SHALL:
2	(a) Assist the controller in meeting the controller's
3	OBLIGATIONS UNDER SECTIONS 6-1-1308.5 AND 6-1-1309.5, TAKING INTO
4	ACCOUNT:
5	(I) THE NATURE OF THE PROCESSING;
6	(II) THE INFORMATION AVAILABLE TO THE PROCESSOR BY
7	APPROPRIATE TECHNICAL AND ORGANIZATIONAL MEASURES; AND
8	(III) WHETHER THE ASSISTANCE IS REASONABLY PRACTICABLE
9	AND NECESSARY TO ASSIST THE CONTROLLER IN MEETING ITS
10	OBLIGATIONS; AND
11	(b) Provide any information that is necessary to enable
12	THE CONTROLLER TO CONDUCT AND DOCUMENT DATA PROTECTION
13	ASSESSMENTS PURSUANT TO SECTION 6-1-1309.5.
14	(2) A CONTRACT BETWEEN A CONTROLLER AND A PROCESSOR
15	MUST SATISFY THE REQUIREMENTS IN SECTION 6-1-1305 (5).
16	(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RELIEVE
17	A CONTROLLER OR PROCESSOR FROM THE LIABILITIES IMPOSED ON THE
18	CONTROLLER OR PROCESSOR BY VIRTUE OF THE CONTROLLER'S OR
19	PROCESSOR'S ROLE IN THE PROCESSING RELATIONSHIP AS DESCRIBED IN
20	SECTIONS 6-1-1308.5 AND 6-1-1309.5.
21	(4) DETERMINING WHETHER A PERSON IS ACTING AS A
22	CONTROLLER OR PROCESSOR WITH RESPECT TO A SPECIFIC PROCESSING OF
23	DATA IS A FACT-BASED DETERMINATION THAT DEPENDS UPON THE
24	CONTEXT IN WHICH PERSONAL DATA IS TO BE PROCESSED. A PERSON THAT
25	IS NOT LIMITED IN THE PERSON'S PROCESSING OF PERSONAL DATA
26	PURSUANT TO A CONTROLLER'S INSTRUCTIONS, OR THAT FAILS TO ADHERE
27	TO THE INSTRUCTIONS, IS A CONTROLLER AND NOT A PROCESSOR WITH

-8- SB24-041

1	RESPECT TO A SPECIFIC PROCESSING OF DATA, A PROCESSOR THAT
2	CONTINUES TO ADHERE TO A CONTROLLER'S INSTRUCTIONS WITH RESPECT
3	TO A SPECIFIC PROCESSING OF PERSONAL DATA REMAINS A PROCESSOR. IF
4	A PROCESSOR BEGINS, ALONE OR JOINTLY WITH OTHERS, DETERMINING THE
5	PURPOSES AND MEANS OF THE PROCESSING OF PERSONAL DATA, THE
6	PROCESSOR IS A CONTROLLER WITH RESPECT TO THE PROCESSING AND MAY
7	BE SUBJECT TO AN ENFORCEMENT ACTION UNDER SECTION 6-1-1311.
8	6-1-1308.5. Duties of controllers - duty of care - rebuttable
9	presumption. (1) (a) A CONTROLLER THAT OFFERS ANY ONLINE SERVICE,
10	PRODUCT, OR FEATURE TO A CONSUMER WHOM THE CONTROLLER
11	ACTUALLY KNOWS OR WILLFULLY DISREGARDS IS A MINOR SHALL USE
12	REASONABLE CARE TO AVOID ANY HEIGHTENED RISK OF HARM TO MINORS
13	CAUSED BY THE ONLINE SERVICE, PRODUCT, OR FEATURE.
14	(b) In any enforcement action brought by the attorney
15	GENERAL OR A DISTRICT ATTORNEY PURSUANT TO SECTION 6-1-1311,
16	THERE IS A REBUTTABLE PRESUMPTION THAT A CONTROLLER USED
17	REASONABLE CARE AS REQUIRED UNDER THIS SECTION IF THE CONTROLLER
18	COMPLIED WITH THIS SECTION.
19	(2) Unless a controller has obtained consent in
20	ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, A CONTROLLER
21	THAT OFFERS ANY ONLINE SERVICE, PRODUCT, OR FEATURE TO A
22	CONSUMER WHOM THE CONTROLLER ACTUALLY KNOWS OR WILLFULLY
23	DISREGARDS IS A MINOR SHALL NOT:
24	(a) PROCESS A MINOR'S PERSONAL DATA:
25	(I) FOR THE PURPOSES OF:
26	(A) TARGETED ADVERTISING;
2.7	(B) THE SALE OF PERSONAL DATA: OR

-9- SB24-041

1	(C) PROFILING IN FURTHERANCE OF ANY FULLY AUTOMATED
2	DECISION MADE BY THE CONTROLLER THAT PRODUCES ANY LEGAL OR
3	SIMILARLY SIGNIFICANT EFFECT ON THE PROVISION OR DENIAL BY THE
4	CONTROLLER OF FINANCIAL OR LENDING SERVICES, HOUSING, INSURANCE,
5	AN EDUCATION ENROLLMENT OR OPPORTUNITY, CRIMINAL JUSTICE, AN
6	EMPLOYMENT OPPORTUNITY, HEALTH-CARE SERVICES, OR ACCESS TO
7	ESSENTIAL GOODS OR SERVICES;
8	(II) FOR ANY PROCESSING PURPOSE OTHER THAN THE PROCESSING
9	PURPOSE THAT THE CONTROLLER DISCLOSED AT THE TIME THE
10	CONTROLLER COLLECTED THE MINOR'S PERSONAL DATA OR THAT IS
11	REASONABLY NECESSARY FOR, AND COMPATIBLE WITH, THE PROCESSING
12	PURPOSE THAT THE CONTROLLER DISCLOSED AT THE TIME THE
13	CONTROLLER COLLECTED THE MINOR'S PERSONAL DATA; OR
14	(III) FOR LONGER THAN IS REASONABLY NECESSARY TO PROVIDE
15	THE ONLINE SERVICE, PRODUCT, OR FEATURE;
16	(b) (I) Use any system design feature to significantly
17	INCREASE, SUSTAIN, OR EXTEND A MINOR'S USE OF THE ONLINE SERVICE,
18	PRODUCT, OR FEATURE.
19	(II) This subsection (2)(b) does not apply to any service or
20	APPLICATION THAT IS USED BY AND UNDER THE DIRECTION OF AN
21	EDUCATIONAL ENTITY, INCLUDING A LEARNING MANAGEMENT SYSTEM OR
22	A STUDENT ENGAGEMENT PROGRAM.
23	(c) COLLECT A MINOR'S PRECISE GEOLOCATION DATA UNLESS:
24	(I) THE MINOR'S PRECISE GEOLOCATION DATA IS REASONABLY
25	NECESSARY FOR THE CONTROLLER TO PROVIDE THE ONLINE SERVICE,
26	PRODUCT, OR FEATURE;
27	(II) THE CONTROLLER ONLY COLLECTS THE MINOR'S PRECISE

-10- SB24-041

1	GEOLOCATION DATA FOR THE TIME NECESSARY TO PROVIDE THE ONLINE
2	SERVICE, PRODUCT, OR FEATURE; AND
3	(III) THE CONTROLLER PROVIDES TO THE MINOR A SIGNAL
4	INDICATING THAT THE CONTROLLER IS COLLECTING THE MINOR'S PRECISE
5	GEOLOCATION DATA AND MAKES THE SIGNAL AVAILABLE TO THE MINOR
6	FOR THE ENTIRE DURATION OF THE COLLECTION OF THE MINOR'S PRECISE
7	GEOLOCATION DATA.
8	(3) (a) A CONTROLLER SHALL NOT ENGAGE IN THE ACTIVITIES
9	DESCRIBED IN SUBSECTION (2) OF THIS SECTION UNLESS THE CONTROLLER
10	OBTAINS:
11	(I) THE MINOR'S CONSENT; OR
12	(II) (A) IF THE MINOR IS A CHILD, THE CONSENT OF THE MINOR'S
13	PARENT OR LEGAL GUARDIAN.
14	(B) A CONTROLLER THAT COMPLIES WITH THE VERIFIABLE
15	PARENTAL CONSENT REQUIREMENTS ESTABLISHED IN THE "CHILDREN'S
16	Online Privacy Protection Act of 1998", 15 U.S.C. sec. 6501 et
17	SEQ., AS AMENDED, AND THE REGULATIONS, RULES, GUIDANCE, AND
18	EXEMPTIONS ADOPTED PURSUANT TO SAID ACT, AS AMENDED, IS DEEMED
19	TO HAVE SATISFIED ANY REQUIREMENT TO OBTAIN PARENTAL CONSENT
20	UNDER THIS SUBSECTION $(3)(a)(II)$.
21	(b) (I) A CONTROLLER THAT OFFERS ANY ONLINE SERVICE,
22	PRODUCT, OR FEATURE TO A CONSUMER WHOM THAT CONTROLLER
23	ACTUALLY KNOWS OR WILLFULLY DISREGARDS IS A MINOR SHALL NOT:
24	(A) PROVIDE ANY CONSENT MECHANISM THAT IS DESIGNED TO
25	SUBSTANTIALLY SUBVERT OR IMPAIR, OR IS MANIPULATED WITH THE
26	EFFECT OF SUBSTANTIALLY SUBVERTING OR IMPAIRING, USER AUTONOMY,
2.7	DECISION-MAKING OR CHOICE: OR

-11- SB24-041

1	(B) EXCEPT AS PROVIDED IN SUBSECTION $(3)(b)(11)$ of this
2	SECTION, OFFER ANY DIRECT MESSAGING APPARATUS FOR USE BY A MINOR
3	WITHOUT PROVIDING READILY ACCESSIBLE AND EASY-TO-USE
4	SAFEGUARDS TO LIMIT THE ABILITY OF AN ADULT TO SEND UNSOLICITED
5	COMMUNICATIONS TO THE MINOR WITH WHOM THE ADULT IS NOT
6	CONNECTED.
7	(II) Subsection (3)(b)(I)(B) of this section does not apply to
8	AN ONLINE SERVICE, PRODUCT, OR FEATURE OF WHICH THE PREDOMINANT
9	OR EXCLUSIVE FUNCTION IS:
10	(A) ELECTRONIC MAIL; OR
11	(B) DIRECT MESSAGING CONSISTING OF TEXT, PHOTOS, OR VIDEOS
12	THAT ARE SENT BETWEEN DEVICES BY ELECTRONIC MEANS, WHERE
13	MESSAGES ARE: SHARED BETWEEN THE SENDER AND THE RECIPIENT; ONLY
14	VISIBLE TO THE SENDER AND THE RECIPIENT; AND NOT POSTED PUBLICLY.
15	6-1-1309.5. Data protection assessments. (1) A CONTROLLER
16	THAT, ON OR AFTER OCTOBER 1, 2025, OFFERS ANY ONLINE SERVICE,
17	PRODUCT, OR FEATURE TO A CONSUMER WHOM SUCH CONTROLLER
18	ACTUALLY KNOWS OR WILLFULLY DISREGARDS IS A MINOR SHALL
19	CONDUCT A DATA PROTECTION ASSESSMENT FOR THE ONLINE SERVICE,
20	PRODUCT, OR FEATURE:
21	(a) In a manner that is consistent with the requirements
22	ESTABLISHED IN SECTION 6-1-1309; AND
23	(b) THAT ADDRESSES:
24	(I) THE PURPOSE OF THE ONLINE SERVICE, PRODUCT, OR FEATURE;
25	(II) THE CATEGORIES OF A MINOR'S PERSONAL DATA THAT THE
26	ONLINE SERVICE, PRODUCT, OR FEATURE PROCESSES;
27	(III) THE PURPOSES FOR WHICH THE CONTROLLER PROCESSES A

-12- SB24-041

1	MINOR'S PERSONAL DATA WITH RESPECT TO THE ONLINE SERVICE,
2	PRODUCT, OR FEATURE; AND
3	(IV) ANY HEIGHTENED RISK OF HARM TO A MINOR THAT IS A
4	REASONABLY FORESEEABLE RESULT OF OFFERING THE ONLINE SERVICE,
5	PRODUCT, OR FEATURE TO A MINOR.
6	(2) A CONTROLLER THAT CONDUCTS A DATA PROTECTION
7	ASSESSMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL:
8	(a) REVIEW THE DATA PROTECTION ASSESSMENT AS NECESSARY TO
9	ACCOUNT FOR ANY MATERIAL CHANGE TO THE PROCESSING OPERATIONS
10	OF THE ONLINE SERVICE, PRODUCT, OR FEATURE THAT IS THE SUBJECT OF
11	THE DATA PROTECTION ASSESSMENT; AND
12	(b) Maintain documentation concerning the data
13	PROTECTION ASSESSMENT FOR THE LONGER OF:
14	(I) THREE YEARS AFTER THE DATE ON WHICH THE PROCESSING
15	OPERATIONS CEASE; OR
16	(II) THE DATE THE CONTROLLER CEASES OFFERING THE ONLINE
17	SERVICE, PRODUCT, OR FEATURE.
18	(3) A SINGLE DATA PROTECTION ASSESSMENT MAY ADDRESS A
19	COMPARABLE SET OF PROCESSING OPERATIONS THAT INCLUDE SIMILAR
20	ACTIVITIES.
21	(4) IF A CONTROLLER CONDUCTS A DATA PROTECTION ASSESSMENT
22	FOR THE PURPOSE OF COMPLYING WITH ANOTHER APPLICABLE LAW OR
23	REGULATION, THE DATA PROTECTION ASSESSMENT IS DEEMED TO SATISFY
24	THE REQUIREMENTS ESTABLISHED IN THIS SECTION IF THE DATA
25	PROTECTION ASSESSMENT IS REASONABLY SIMILAR IN SCOPE AND EFFECT
26	TO THE DATA PROTECTION ASSESSMENT THAT WOULD OTHERWISE BE
27	CONDUCTED PURSUANT TO THIS SECTION.

-13- SB24-041

1	(5) IF A CONTROLLER CONDUCTS A DATA PROTECTION ASSESSMENT
2	PURSUANT TO SUBSECTION (1) OF THIS SECTION OR A DATA PROTECTION
3	ASSESSMENT REVIEW PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION
4	AND DETERMINES THAT THE ONLINE SERVICE, PRODUCT, OR FEATURE THAT
5	IS THE SUBJECT OF THE ASSESSMENT POSES A HEIGHTENED RISK OF HARM
6	TO A MINOR, THE CONTROLLER SHALL ESTABLISH AND IMPLEMENT A PLAN
7	TO MITIGATE OR ELIMINATE THE HEIGHTENED RISK.
8	(6) (a) A DATA PROTECTION ASSESSMENT CONDUCTED PURSUANT
9	TO THIS SECTION:
10	(I) IS CONFIDENTIAL, EXCEPT AS PROVIDED IN SUBSECTION (6)(b)
11	OF THIS SECTION; AND
12	(II) IS NOT A PUBLIC RECORD, AND IS EXEMPT FROM PUBLIC
13	INSPECTION AND COPYING, UNDER THE "COLORADO OPEN RECORDS ACT",
14	PART 2 OF ARTICLE 72 OF TITLE 24.
15	(b) (I) A CONTROLLER SHALL MAKE A DATA PROTECTION
16	ASSESSMENT CONDUCTED PURSUANT TO THIS SECTION AVAILABLE TO THE
17	ATTORNEY GENERAL UPON REQUEST. THE ATTORNEY GENERAL MAY
18	EVALUATE THE DATA PROTECTION ASSESSMENT FOR COMPLIANCE WITH
19	SECTION 6 - 1 - 1308.5 and with other laws, including this article 1 .
20	(II) THE DISCLOSURE OF A DATA PROTECTION ASSESSMENT
21	PURSUANT TO A REQUEST FROM THE ATTORNEY GENERAL DOES NOT
22	CONSTITUTE A WAIVER OF ANY ATTORNEY-CLIENT PRIVILEGE OR
23	WORK-PRODUCT PROTECTION THAT MIGHT OTHERWISE EXIST WITH
24	RESPECT TO THE ASSESSMENT AND ANY INFORMATION IN THE ASSESSMENT.
25	(7) Data protection assessment requirements apply to
26	PROCESSING ACTIVITIES CREATED OR GENERATED AFTER OCTOBER 1,
27	2025, AND ARE NOT RETROACTIVE.

-14- SB24-041

1	SECTION 5. In Colorado Revised Statutes, 6-1-1311, amend
2	(1)(d) as follows:
3	6-1-1311. Enforcement - penalties - repeal. (1) (d) (I) Prior to
4	any enforcement action pursuant to subsection (1)(a) of this section,
5	OTHER THAN AN ENFORCEMENT ACTION DESCRIBED IN SUBSECTION
6	(1)(d)(II) OF THIS SECTION, the attorney general or district attorney must
7	issue a notice of violation to the controller if a cure is deemed possible.
8	If the controller fails to cure the violation within sixty days after receipt
9	of the notice of violation, an action may be brought pursuant to this
10	section. This $\frac{1}{2}$ SUBSECTION (1)(d)(I) is repealed, effective
11	January 1, 2025.
12	(II) PRIOR TO ANY ENFORCEMENT ACTION PURSUANT TO
13	SUBSECTION (1)(a) OF THIS SECTION TO ENFORCE SECTION 6-1-1305.5,
14	6-1-1308.5, OR 6-1-1309.5, THE ATTORNEY GENERAL OR DISTRICT
15	ATTORNEY MUST ISSUE A NOTICE OF VIOLATION TO THE CONTROLLER IF A
16	CURE IS DEEMED POSSIBLE. IF THE CONTROLLER FAILS TO CURE THE
17	VIOLATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE OF
18	VIOLATION, AN ACTION MAY BE BROUGHT PURSUANT TO THIS SECTION.
19	This subsection (1)(d)(II) is repealed, effective December 31, 2026.
20	SECTION 6. Act subject to petition - effective date -
21	applicability. (1) This act takes effect October 1, 2025; except that, if a
22	referendum petition is filed pursuant to section 1 (3) of article V of the
23	state constitution against this act or an item, section, or part of this act
24	within the ninety-day period after final adjournment of the general
25	assembly, then the act, item, section, or part will not take effect unless
26	approved by the people at the general election to be held in November
27	2024 and, in such case, will take effect October 1, 2025, or on the date of

-15- SB24-041

- 1 the official declaration of the vote thereon by the governor, whichever is
- 2 later.
- 3 (2) This act applies to conduct occurring on or after the applicable
- 4 effective date of this act.

-16- SB24-041