A BILL FOR AN ACT

CONCERNING THE USE OF TECHNOLOGY, AND, IN CONNECTION

THEREWITH, EXPANDING THE SCOPE OF THE TASK FORCE FOR

THE CONSIDERATION OF FACIAL RECOGNITION SERVICES TO

INCLUDE ARTIFICIAL INTELLIGENCE AND BIOMETRIC

TECHNOLOGY, ADDING MEMBERS TO THE TASK FORCE WHO ARE

EXPERTS IN ARTIFICIAL INTELLIGENCE AND BIOMETRIC

TECHNOLOGY, ESTABLISHING EXCEPTIONS FOR THE USE OF

FACIAL RECOGNITION TECHNOLOGY IN SCHOOLS IN CERTAIN

CIRCUMSTANCES, AND MODIFYING THE REPORTING AUTHORITY

FOR STATE AGENCIES THAT USE FACIAL RECOGNITION

TECHNOLOGY.

Bill Summary

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.
Joint Technology Committee. The bill updates the membership and issues of study for the task force for the consideration of facial recognition services and changes the name of the task force to the biometric technology and artificial intelligence policy task force (task force). The task force will expand from 15 to 17 members and now includes a member who is an expert in generative artificial intelligence technology; a member who is an expert in social media, biometric technology, or artificial intelligence technology; and a member who is an advocate for youth safety and privacy. The member who represents the Colorado bureau of investigation will be replaced.

The bill updates the issues of study of the task force to include artificial intelligence technology and biometric technology in addition to facial recognition technology. The scope of the task force is expanded to include a focus on the use of these emerging technologies generally rather than their use by only state and local government agencies.

The bill adds exceptions to the moratorium on schools using facial recognition technologies, which would allow a school to use facial recognition technologies in certain circumstances.

The bill modifies the reporting requirements for state agencies that use facial recognition services so that agency records are maintained by the agency and subject to inspection and review by the office of information technology.

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

SECTION 1. In Colorado Revised Statutes, 2-3-1701, amend (1) and (12); and add (1.5) as follows:

2-3-1701. Definitions. As used in this part 17, unless the context otherwise requires:

(1) (a) "Artificial intelligence" means systems that can:

(1) (a) Perceive an environment through data acquisition, process and interpret the derived information, and take actions or imitate intelligent behavior to achieve a specified goal; and
(b) (II) Learn from past behavior and results and adapt their behavior accordingly.

(b) "ARTIFICIAL INTELLIGENCE" INCLUDES A GENERATIVE ARTIFICIAL INTELLIGENCE TECHNOLOGY THAT IS ABLE TO PRODUCE SYNTHETIC DIGITAL CONTENT.

(1.5) "BIOMETRIC TECHNOLOGY" MEANS A TECHNOLOGY THAT USES, COLLECTS, OR ANALYZES UNIQUE BIOMETRIC DATA GENERATED FROM MEASUREMENTS OR ANALYSIS OF HUMAN BODY CHARACTERISTICS.

(12) "Task force" means the task force for the consideration of facial recognition services BIOMETRIC TECHNOLOGY AND ARTIFICIAL INTELLIGENCE POLICY TASK FORCE created in section 2-3-1707.

SECTION 2. In Colorado Revised Statutes, 2-3-1707, amend (1)(a) introductory portion, (1)(a)(IX), (1)(a)(X), (1)(a)(XI), (1)(a)(XIV), (1)(b), (1)(c)(IV), and (2); repeal (1)(a)(III); and add (1)(a)(XVI), (1)(a)(XVII), and (1)(a)(XVIII) as follows:

2-3-1707. Biometric technology and artificial intelligence policy task force - creation - membership - duties - compensation - staff support - repeal. (1) Creation - membership. (a) There is created a task force for the consideration of facial recognition services THE BIOMETRIC TECHNOLOGY AND ARTIFICIAL INTELLIGENCE POLICY TASK FORCE. The task force consists of the following fifteen SEVENTEEN members:

(III) The director of the Colorado bureau of investigation created in section 24-33.5-401 or the director's designee;

(IX) One member who is an instructor at an institution of higher education and has WITH expert knowledge of, and experience with, facial recognition services technology, ARTIFICIAL INTELLIGENCE TECHNOLOGY,
OR BIOMETRIC TECHNOLOGY, to be appointed by the president of the senate;

   (X) One member who is a business professional with expert knowledge of, and experience with, facial recognition services, products ARTIFICIAL INTELLIGENCE TECHNOLOGY, OR BIOMETRIC TECHNOLOGY, to be appointed by the speaker of the house of representatives;

   (XI) One member who is an attorney with expert knowledge of, and experience with, federal and state laws concerning facial recognition services, ARTIFICIAL INTELLIGENCE TECHNOLOGY, OR BIOMETRIC TECHNOLOGY, to be appointed by the president of the senate;

   (XIV) One member who represents a statewide civil liberties organization, to be appointed by the speaker of the house of representatives; and

   (XVI) ONE MEMBER WHO IS AN ACADEMIC RESEARCHER AND EXPERT IN GENERATIVE ARTIFICIAL INTELLIGENCE TECHNOLOGIES, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

   (XVII) ONE MEMBER WHO IS A BUSINESS PROFESSIONAL WITH EXPERT KNOWLEDGE OF, AND EXPERIENCE WITH, SOCIAL MEDIA, BIOMETRIC TECHNOLOGY, OR ARTIFICIAL INTELLIGENCE TECHNOLOGY, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE; AND

   (XVIII) ONE MEMBER WHO IS AN ADVOCATE FOR YOUTH SAFETY AND PRIVACY, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE.

   (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS SECTION, the speaker of the house of representatives and the president of the senate shall make each of the initial appointments described in subsection (1)(a) of this section not later than sixty days after August 10, 2022.
(II) The Speaker of the House of Representatives and the President of the Senate shall make the appointments described in subsections (1)(a)(XVI), (1)(a)(XVII), and (1)(a)(XVIII) of this section, as amended by this Senate Bill 24-___, enacted in 2024, on or before October 1, 2024.

(c) The terms of the appointed members of the task force are as follows:

(IV) The members appointed pursuant to subsections (1)(a)(XI) to (1)(a)(XV) of this section shall serve terms of four years.

(2) Issues for study. The task force shall examine and, pursuant to subsection (3)(e) of this section, report to the committee concerning the extent to which state and local government agencies are currently using use of facial recognition services, artificial intelligence technology, and biometric technology and provide recommendations concerning the extent to which state and local government agencies should be permitted to use facial recognition services, artificial intelligence technology, and biometric technology, including consideration of:

(a) Regulation, approval, and procurement of facial recognition services, artificial intelligence technology, and biometric technology;

(b) Access to data collected by facial recognition services, artificial intelligence technology, and biometric technology;

(c) Education of the public concerning facial recognition services, artificial intelligence technology, and biometric technology, including in public schools and institutions of higher education;

(d) Ethical considerations relating to the use of facial recognition services, artificial intelligence technology, and biometric technology;
services, ARTIFICIAL INTELLIGENCE TECHNOLOGY, AND BIOMETRIC TECHNOLOGY;

(e) Transparency and disclosure requirements concerning how state and local government agencies use facial recognition services, ARTIFICIAL INTELLIGENCE TECHNOLOGY, AND BIOMETRIC TECHNOLOGY;

(f) The potential abuses and threats posed to civil liberties, freedoms, privacy, and security by the use of facial recognition services, ARTIFICIAL INTELLIGENCE TECHNOLOGY, AND BIOMETRIC TECHNOLOGY;

(g) The potential impact of the use of facial recognition services, ARTIFICIAL INTELLIGENCE TECHNOLOGY, AND BIOMETRIC TECHNOLOGY on vulnerable communities; and

(h) How to facilitate and encourage the continued development of facial recognition services, ARTIFICIAL INTELLIGENCE TECHNOLOGY, AND BIOMETRIC TECHNOLOGY so that individuals, businesses, governments, and other institutions can benefit from their use while safeguarding against potential abuses and threats.

SECTION 3. In Colorado Revised Statutes, 2-3-1203, amend (18.5)(a)(III) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (18.5) (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2027:

(III) The task force for the consideration of facial recognition services BIOMETRIC TECHNOLOGY AND ARTIFICIAL INTELLIGENCE POLICY TASK FORCE created in section 2-3-1707.

SECTION 4. In Colorado Revised Statutes, 22-32-150, amend (2) as follows:
22-32-150. Contracting for facial recognition service by
schools prohibited - exceptions for use of facial recognition service -
definition - repeal. (2) The prohibition described in subsection (1) of
this section does not apply to:

(a) A contract that was executed before August 10, 2022,
including such a contract that is renewed after August 10, 2022; or

(b) A contract for the purchase of, or for services related to, a
generally available consumer product, including a tablet or smartphone,
that allows for the analysis of facial features in order to facilitate the
user's ability to manage an address book or still or video images for
personal or household use;

(c) A PRODUCT, DEVICE, OR SOFTWARE APPLICATION THAT ALLOWS
FOR ANALYSIS OF FACIAL FEATURES FOR EDUCATION PURPOSES IN
CONJUNCTION WITH CURRICULA APPROVED BY THE LOCAL SCHOOL BOARD
OF A SCHOOL DISTRICT AS DEFINED IN SECTION 22-5-103 (4) OR BY A STATE
INSTITUTION OF HIGHER EDUCATION AS DEFINED IN SECTION 23-18-102
(10); OR

(d) A PRODUCT, DEVICE, OR SOFTWARE APPLICATION THAT ALLOWS
FOR THE ANALYSIS OF FACIAL FEATURES UNDER THE FOLLOWING
CIRCUMSTANCES:

(I) WHEN AN INDIVIDUAL MAKES AN ARTICULATED AND
SIGNIFICANT THREAT AGAINST A SCHOOL OR THE OCCUPANTS OF A SCHOOL
AND THE USE OF FACIAL RECOGNITION TECHNOLOGY MAY ASSIST IN
KEEPING THE SCHOOL OR OCCUPANTS SAFE;

(II) WHEN A STUDENT ABSCONDS FROM A CLASS, FIELD TRIP,
EVENT, OR PROGRAM OR IS OTHERWISE REPORTED AS LOST OR MISSING BY
THE STUDENT'S PARENTS, TEACHERS, OR SCHOOL OFFICIALS AND THERE IS
A REASONABLE BELIEF THAT USING FACIAL RECOGNITION TECHNOLOGY MAY ASSIST IN FINDING THE LOST OR MISSING STUDENT; OR

(III) WHEN AN INDIVIDUAL HAS BEEN ORDERED TO STAY OFF SCHOOL DISTRICT PROPERTY OR THE PROPERTY OF A STATE INSTITUTION OF HIGHER EDUCATION AND, BASED ON THREATENING OR HARASSING BEHAVIOR, THERE IS A REASONABLE BELIEF THAT THE INDIVIDUAL MAY ATTEMPT TO REENTER THE PROPERTY FROM WHICH THE INDIVIDUAL IS BANNED.

SECTION 5. In Colorado Revised Statutes, 24-18-301, amend (14) as follows:

24-18-301. Definitions. As used in this part 3, unless the context otherwise requires:

(14) "Reporting authority" means:
(a) For a local government agency, the city council, county commission, or other local government agency in which legislative powers are vested; and
(b) For a state agency, THE STATE AGENCY SHALL SERVE AS ITS OWN REPORTING AUTHORITY AND MAINTAIN ANY RECORDS REQUIRED BY THIS PART 3 FOR INSPECTION AND REVIEW UPON REQUEST BY the office of information technology created in section 24-37.5-103.

SECTION 6. In Colorado Revised Statutes, 24-18-302, amend (1) and (4) as follows:

24-18-302. Notice of intent to use facial recognition service - accountability reports - public review and comment - notice - exemption. (1) (a) On and after August 10, 2022, an agency that uses or intends to develop, procure, or use a facial recognition service shall file with its reporting authority a notice of intent to develop, procure, use, or
continue to use the facial recognition service and specify a purpose for which the technology is to be used.

(b) A STATE AGENCY SHALL MAINTAIN RECORDS OF THE AGENCY'S INTENT TO DEVELOP, PROCURE, USE, OR CONTINUE TO USE A FACIAL RECOGNITION SERVICE AND SPECIFY A PURPOSE FOR WHICH THE TECHNOLOGY IS TO BE USED. THE RECORDS ARE SUBJECT TO INSPECTION AND REVIEW UPON REQUEST BY THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

(4) (a) At least ninety days before an agency puts a facial recognition service into operational use, the agency shall post the final adopted accountability report on the agency's public website and submit it to the agency's reporting authority. The reporting authority shall post the most recent version of each submitted accountability report on its public website.

(b) A STATE AGENCY SHALL MAINTAIN RECORDS OF THE STATE AGENCY'S FINAL ADOPTED ACCOUNTABILITY REPORT, WHICH RECORDS AND REPORT ARE SUBJECT TO INSPECTION AND REVIEW UPON REQUEST BY THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

SECTION 7. In Colorado Revised Statutes, 24-18-308, amend (3) as follows:

24-18-308. Use of facial recognition service by agencies - disclosure to criminal defendant required - warrants. (3) (a) In January of each year, any agency that has applied for a warrant or an extension of a warrant for the use of a facial recognition service to engage in any surveillance as described in section 24-18-307 shall provide to the agency's reporting authority a report summarizing nonidentifying
demographic data of individuals named in warrant applications as subjects of surveillance with the use of a facial recognition service.

(b) A STATE AGENCY SHALL Compile THE REPORT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, WHICH REPORT IS SUBJECT TO INSPECTION AND REVIEW UPON REQUEST BY THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

SECTION 8. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.