

Drafting Number:

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

LLS 24-0667

Final Fiscal Note

Prime Sponsors: Sen. Rodriguez; Lundeen **Bill Status:** Signed into Law Shukria Maktabi | 303-866-4720 Rep. Frizell; Mabrey Fiscal Analyst: shukria.maktabi@coleg.gov **Bill Topic:** PRIVACY PROTECTIONS FOR CHILDREN'S ONLINE DATA Summary of ☐ State Transfer □ Local Government **Fiscal Impact:** ☐ TABOR Refund ☐ Statutory Public Entity The bill adds additional protections for children's data to the Colorado Privacy Act. It increases state and local workload, and may increase state revenue, beginning in FY 2025-26. **Appropriation** No appropriation is required. **Summary: Fiscal Note** The final fiscal note reflects the enacted bill. Status:

Date:

July 8, 2024

Summary of Legislation

The bill modifies the Colorado Privacy Act within the Colorado Consumer Protection Act to add protections around the processing of minors' data. The provisions apply to any entity that controls consumer personal data and conducts business in Colorado, with certain exceptions.

By October 1, 2025, any entity that offers an online service, product, or feature to minors must use reasonable care to avoid heightened risk of harm to minors and must conduct data protection assessments. The assessment must be made available to the Attorney General upon request.

Entities are also not allowed to process a minor's personal data in certain ways, unless the minor or their guardian has consented. This includes processing data for purposes of targeted advertising, processing it for longer than necessary, or processing it for purposes other than the purpose disclosed at the time data was collected. The entity must also not use system design features to increase minors use of the service or product or collect precise geolocation data, except in certain instances.

The Attorney General and district attorneys are authorized to enforce the requirements in the same manner authorized under the Colorado Privacy Act, including notifying the offender and providing them with an opportunity to cure the violation prior to filing a civil case.

Background

SB 21-190 created the Colorado Privacy Act to address consumers' rights to privacy and companies' responsibility to protect personal data. The act does not apply to certain specified entities and data types, including state and local governments, state institutions of higher education, certain financial institutions, and consumer reporting agencies. Data that is not applicable are subject to specific state and federal laws, and include health and employment records.

State Revenue

Beginning FY 2025-26, state revenue may increase for civil penalties and filing fees from data privacy violations.

Civil penalties. For enforcement purposes, any person violating the Colorado Privacy Act commits a deceptive trade practice and may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the opportunity to cure, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing fees. The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

Beginning in FY 2025-26, the bill minimally increases workload for the Department of Law and the Judicial Department.

Department of Law. Workload in the Department of Law will minimally increase to review complaints under the bill. The department will prioritize investigations as necessary within the overall number of consumer protection complaints and available resources.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the bill. It is assumed that entities will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

Local Government

To the extent district attorneys enforce the new provisions of the bill, workload for district attorneys will increase. It is assumed most complaints will be handled at the state level by the Attorney General and any workload impact will be minimal.

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Effective Date

The bill was signed into law by the Governor on May 31, 2024, and takes effect on August 7, 2024, assuming no referendum petition is filed.

State and Local Government Contacts

All State Agencies Counties District Attorneys

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the <u>General Assembly website</u>.