

First Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0848.01 Brita Darling x2241

HOUSE BILL 25-1264

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HOUSE SPONSORSHIP

Mabrey and Garcia,

SENATE SPONSORSHIP

Jodeh and Weissman,

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING LIMITING THE USE OF AUTOMATED ANALYSIS OF  
102 INTIMATE PERSONAL DATA TO MAKE INFERENCES THAT IMPACT  
103 A PERSON'S FINANCIAL POSITION.

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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>.)*

Surveillance data is data that is obtained through observation, inference, or surveillance and that is related to personal characteristics, behaviors, or biometrics. The bill prohibits surveillance-based discrimination against a consumer or worker based on surveillance data through the use of automated decision systems to inform:

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.



1           (1) (a) "AUTOMATED DECISION SYSTEM" MEANS A SYSTEM,  
2 SOFTWARE, OR PROCESS THAT USES COMPUTATION, THE RESULT OF WHICH  
3 IS USED TO ASSIST OR REPLACE HUMAN DECISION-MAKING.

4           (b) "AUTOMATED DECISION SYSTEM" INCLUDES A SYSTEM,  
5 SOFTWARE, OR PROCESS DERIVED FROM MACHINE LEARNING, STATISTICS,  
6 OR OTHER DATA PROCESSING OR ARTIFICIAL INTELLIGENCE TECHNIQUES  
7 AND EXCLUDES PASSIVE COMPUTING INFRASTRUCTURE.

8           (2) "BEHAVIORS" MEANS AN INDIVIDUAL'S OBSERVABLE,  
9 MEASURABLE, OR INFERRED ACTIONS, HABITS, PREFERENCES, INTERESTS,  
10 OR VULNERABILITIES, INCLUDING THE INDIVIDUAL'S POLITICAL, PERSONAL,  
11 OR PROFESSIONAL AFFILIATIONS, WEB BROWSING HISTORY, IP ADDRESSES  
12 USED, LOCATIONS FREQUENTED, PURCHASE HISTORY, FINANCIAL  
13 CIRCUMSTANCES, CONSUMER BEHAVIORS, OR INFERENCES ASSOCIATED  
14 WITH A GROUP, BAND, CLASS, OR TIER OF INDIVIDUALS IN WHICH THE  
15 INDIVIDUAL BELONGS.

16           (3) (a) "BIOMETRICS" MEANS DATA OR INFORMATION GENERATED  
17 BY THE TECHNOLOGICAL PROCESSING, MEASUREMENT, OR ANALYSIS OF A  
18 CONSUMER'S OR WORKER'S BIOLOGICAL, PHYSICAL, OR BEHAVIORAL  
19 CHARACTERISTICS, WHICH DATA OR INFORMATION CAN BE PROCESSED FOR  
20 THE PURPOSE OF UNIQUELY IDENTIFYING AN INDIVIDUAL.

- 21           (b) "BIOMETRICS" INCLUDES:
- 22           (I) A FINGERPRINT;
  - 23           (II) A VOICEPRINT;
  - 24           (III) A SCAN OR RECORD OF AN EYE RETINA OR IRIS;
  - 25           (IV) A FACIAL MAP, FACIAL GEOMETRY, OR FACIAL TEMPLATE;
  - 26           (V) GENETIC INFORMATION; OR
  - 27           (VI) OTHER UNIQUE BIOLOGICAL, PHYSICAL, OR BEHAVIORAL

1 PATTERNS OR CHARACTERISTICS.

2 (4) "CONSUMER" MEANS AN INDIVIDUAL WHO OBTAINS,  
3 MAINTAINS, USES, PURCHASES, LEASES, OR HAS GOODS, SERVICES, OR REAL  
4 OR PERSONAL PROPERTY, OR THE PERSONAL REPRESENTATIVE OF THAT  
5 INDIVIDUAL.

6 (5) "GENETIC INFORMATION" HAS THE MEANING SET FORTH IN  
7 SECTION 10-3-1104.6 (2)(c).

8 (6) "INDIVIDUALIZED" MEANS SPECIFIC TO OR INFERRED ABOUT AN  
9 INDIVIDUAL OR GROUP, BAND, CLASS, OR TIER OF INDIVIDUALS WITH  
10 PARTICULAR PERSONAL CHARACTERISTICS, BEHAVIORS, OR BIOMETRICS.

11 (7) "INSURER" HAS THE MEANING SET FORTH IN SECTION 10-1-102.

12 (8) "PERSONAL CHARACTERISTICS" MEANS INDIVIDUAL QUALITIES,  
13 FEATURES, ATTRIBUTES, OR TRAITS, INCLUDING IMMUTABLE  
14 CHARACTERISTICS SUCH AS RACE AND EYE COLOR, MUTABLE  
15 CHARACTERISTICS SUCH AS ADDRESS, WEIGHT, CITIZENSHIP, OR  
16 PARENTHOOD STATUS, AND ANY OTHER PERSONAL IDENTIFYING  
17 INFORMATION, THAT COULD BE USED TO UNCOVER AN INDIVIDUAL'S  
18 IDENTITY, INCLUDING A SOCIAL SECURITY NUMBER, FULL NAME, OR PHONE  
19 NUMBER.

20 (9) "PRICE" MEANS THE AMOUNT CHARGED TO A CONSUMER IN  
21 RELATION TO A TRANSACTION, INCLUDING ALL RELATED COSTS AND FEES  
22 AND OTHER MATERIAL TERMS OF THE TRANSACTION THAT HAVE A DIRECT  
23 BEARING ON THE AMOUNT PAID BY THE CONSUMER OR THE VALUE OF THE  
24 GOOD OR SERVICE OFFERED OR PROVIDED TO THE CONSUMER.

25 (10) "SURVEILLANCE-BASED PRICE DISCRIMINATION" MEANS USING  
26 AN AUTOMATED DECISION SYSTEM TO INFORM INDIVIDUALIZED PRICES  
27 BASED ON SURVEILLANCE DATA REGARDING A CONSUMER.

1 (11) "SURVEILLANCE-BASED WAGE DISCRIMINATION" MEANS  
2 USING AN AUTOMATED DECISION SYSTEM TO INFORM INDIVIDUALIZED  
3 WAGES BASED ON SURVEILLANCE DATA REGARDING A WORKER.

4 (12)(a) "SURVEILLANCE DATA" MEANS DATA OBTAINED THROUGH  
5 OBSERVATION, INFERENCE, OR SURVEILLANCE OF A CONSUMER OR  
6 WORKER THAT IS RELATED TO PERSONAL CHARACTERISTICS, BEHAVIORS,  
7 OR BIOMETRICS OF THE INDIVIDUAL OR A GROUP, BAND, CLASS, OR TIER IN  
8 WHICH THE INDIVIDUAL BELONGS.

9 (b) "SURVEILLANCE DATA" INCLUDES INFORMATION GATHERED,  
10 PURCHASED, OR OTHERWISE ACQUIRED.

11 (13) "WAGE" MEANS THE MATERIAL TERMS OFFERED TO A WORKER  
12 IN EXCHANGE FOR LABOR, INCLUDING THE AMOUNT TO BE PAID FOR THE  
13 LABOR, WHETHER IN HOURLY RATE, PIECE RATE, SALARY, BONUSES,  
14 COMMISSIONS AND INCENTIVES, SCHEDULING, TASK ASSIGNMENT, OR  
15 OTHER SIMILAR MATERIAL TERMS THAT HAVE A DIRECT IMPACT ON  
16 EARNINGS.

17 (14) "WORKER" MEANS AN INDIVIDUAL PERFORMING WORK AND  
18 INCLUDES AN EMPLOYEE, AS DEFINED IN SECTION 8-4-101, AND ANY OTHER  
19 INDIVIDUAL PERFORMING WORK ON BEHALF OF OR FOR THE BENEFIT OF AN  
20 EMPLOYER OR OTHER PERSON.

21 **6-1-1802. Prohibition against surveillance-based price or wage**  
22 **discrimination - publication of procedures - rules. (1) Price**  
23 **discrimination. (a) A PERSON SHALL NOT ENGAGE IN**  
24 **SURVEILLANCE-BASED PRICE DISCRIMINATION.**

25 (b) A PERSON HAS NOT ENGAGED IN SURVEILLANCE-BASED PRICE  
26 DISCRIMINATION IF THE PERSON CAN DEMONSTRATE THAT:

27 (I) DIFFERENTIAL PRICES ARE JUSTIFIED BASED ON DIFFERENCES IN

1 COST IN PROVIDING A GOOD OR SERVICE TO DIFFERENT CONSUMERS;

2 (II) DIFFERENTIAL PRICES REFLECT DISCOUNTS OFFERED TO ALL  
3 CONSUMERS ON EQUAL TERMS IN A MANNER CONSISTENT WITH  
4 APPLICABLE ANTI-DISCRIMINATION LAWS WHERE:

5 (A) THE TERMS OF THE DISCOUNT ARE AVAILABLE AND  
6 ACCESSIBLE TO CONSUMERS AND THE PUBLIC;

7 (B) DISCOUNTS REWARD MEMBERSHIP IN A PARTICULAR GROUP,  
8 INCLUDING ACTIVE MEMBERS OF THE MILITARY, VETERANS, TEACHERS,  
9 STUDENTS, OR SENIORS; AND

10 (C) ELIGIBILITY FOR THE DISCOUNT IS BASED ON INFORMATION  
11 AFFIRMATIVELY AND VOLUNTARILY PROVIDED BY THE CONSUMER TO THE  
12 PERSON OFFERING THE DISCOUNT; OR

13 (III) THE PERSON OPERATES AS AN INSURER COMPLYING WITH  
14 SECTION 10-3-1104.9 AND ASSOCIATED RULES AND ONLY INPUTS  
15 RISK-RELEVANT DATA INTO AN AUTOMATED DECISION SYSTEM THAT  
16 INFORMS DECISIONS RELATED TO THE AMOUNT A CONSUMER MUST PAY  
17 FOR AN INSURANCE POLICY OR CONTRACT.

18 (c) A PERSON HAS NOT ENGAGED IN SURVEILLANCE-BASED PRICE  
19 DISCRIMINATION IF THE PERSON CAN DEMONSTRATE THAT A REFUSAL TO  
20 EXTEND CREDIT AT SPECIFIC TERMS OR THE REFUSAL TO ENTER INTO A  
21 TRANSACTION WITH A SPECIFIC CONSUMER IS BASED ON DATA PROVIDED  
22 IN A CONSUMER REPORT COVERED BY THE FEDERAL "FAIR CREDIT  
23 REPORTING ACT", 15 U.S.C. SEC. 1681 ET SEQ.

24 (2) **Wage discrimination.** (a) A PERSON SHALL NOT ENGAGE IN  
25 SURVEILLANCE-BASED WAGE DISCRIMINATION.

26 (b) A PERSON HAS NOT ENGAGED IN SURVEILLANCE-BASED WAGE  
27 DISCRIMINATION IF THE PERSON CAN DEMONSTRATE THAT:

1 (I) THE PERSON OFFERS INDIVIDUALIZED WAGES BASED SOLELY  
2 ON:

3 (A) DATA SPECIFIC TO THE INDIVIDUAL WORKER THAT IS DIRECTLY  
4 RELATED TO THE TASKS THE WORKER WAS HIRED TO PERFORM; OR

5 (B) DIFFERENCES IN THE COST TO THE WORKER OF PROVIDING  
6 LABOR TO THE PERSON; AND

7 (II) THE PERSON DISCLOSES IN PLAIN LANGUAGE BEFORE HIRING A  
8 WORKER TO PERFORM WORK, AND TO ALL WORKERS WHOSE WAGES ARE  
9 SET IN WHOLE OR IN PART THROUGH AN AUTOMATED DECISION SYSTEM,  
10 WHAT DATA IS CONSIDERED AND HOW THE AUTOMATED DECISION SYSTEM  
11 CONSIDERS THE DATA.

12 (c) SURVEILLANCE-BASED WAGE DISCRIMINATION DOES NOT  
13 INCLUDE A PERSON'S DECISION NOT TO HIRE AN INDIVIDUAL WHO HAS NOT  
14 PREVIOUSLY WORKED FOR OR THROUGH THE PERSON OR THE PERSON'S  
15 AFFILIATES OR SUBSIDIARIES.

16 (3) **Publication of procedures.** PURSUANT TO PROCEDURES  
17 SPECIFIED BY THE ATTORNEY GENERAL BY RULE, A PERSON THAT USES AN  
18 AUTOMATED DECISION SYSTEM TO ASSIST OR REPLACE HUMAN  
19 DECISION-MAKING RELATED TO WAGES OR PRICES SHALL DEVELOP AND  
20 PUBLISH REASONABLE PROCEDURES:

21 (a) TO ENSURE THE ACCURACY OF ALL DATA CONSIDERED BY THE  
22 AUTOMATED DECISION SYSTEM;

23 (b) TO ALLOW A CONSUMER OR WORKER TO CORRECT OR  
24 CHALLENGE THE ACCURACY OF DATA CONSIDERED BY THE AUTOMATED  
25 DECISION SYSTEM; AND

26 (c) FOR CONSUMERS OR WORKERS TO REQUEST AND RECEIVE  
27 INFORMATION REGARDING WHAT DATA IS CONSIDERED AND HOW

1 AUTOMATED DECISION-MAKING CONSIDERS THE DATA WHEN SETTING  
2 PARTICULAR PRICES OR WAGES.

3 **6-1-1803. Rule-making authority.** THE ATTORNEY GENERAL  
4 SHALL ADOPT RULES AS NECESSARY FOR THE PURPOSE OF IMPLEMENTING  
5 AND ENFORCING THIS PART 18.

6 **6-1-1804. No displacement of other applicable laws.** NOTHING  
7 IN THIS PART 18, INCLUDING THE ENFORCEMENT AUTHORITY GRANTED TO  
8 THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY PURSUANT TO THIS  
9 PART 18, PREEMPTS OR OTHERWISE AFFECTS ANY OTHER RIGHT, CLAIM,  
10 REMEDY, PRESUMPTION, OR DEFENSE AVAILABLE AT LAW OR IN EQUITY.

11 **6-1-1805. Enforcement by attorney general or district attorney**  
12 **- civil penalties - attorney fees - costs - private right of action.** (1) A  
13 PERSON THAT VIOLATES THIS PART 18 ENGAGES IN A DECEPTIVE TRADE  
14 PRACTICE.

15 (2) (a) THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY MAY  
16 BRING A CIVIL ACTION ON BEHALF OF THE STATE AGAINST A PERSON THAT  
17 VIOLATES THIS PART 18 TO SEEK THE IMPOSITION OF CIVIL PENALTIES.

18 (b) (I) A PERSON THAT VIOLATES THIS PART 18 SHALL FORFEIT AND  
19 PAY TO THE GENERAL FUND OF THIS STATE A CIVIL PENALTY OF NOT MORE  
20 THAN TEN THOUSAND DOLLARS FOR EACH VIOLATION.

21 (II) A VIOLATION OF THIS PART 18 CONSTITUTES A SEPARATE  
22 VIOLATION WITH RESPECT TO EACH CONSUMER, WORKER, OR  
23 TRANSACTION INVOLVED.

24 (c) THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY SHALL BE  
25 AWARDED COSTS AND ATTORNEY FEES IN ALL ACTIONS IN WHICH THE  
26 ATTORNEY GENERAL OR THE DISTRICT ATTORNEY SUCCESSFULLY  
27 ENFORCES THIS PART 18.



1 (3) IN ADDITION TO OTHER REMEDIES PROVIDED AT LAW OR IN  
2 EQUITY, A PERSON AGGRIEVED BY A VIOLATION OF THIS PART 18 MAY  
3 BRING A CIVIL ACTION ON BEHALF OF THEMSELF OR A GROUP OF SIMILARLY  
4 SITUATED PERSONS TO RESTRAIN FURTHER VIOLATIONS AND TO RECOVER  
5 DAMAGES, COSTS, AND REASONABLE ATTORNEY FEES, INCLUDING:

6 (a) THE GREATER OF:

7 (I) THE AMOUNT OF ACTUAL DAMAGES SUSTAINED, INCLUDING  
8 PREJUDGMENT INTEREST EITHER OF EIGHT PERCENT PER YEAR OR AT THE  
9 RATE PROVIDED IN SECTION 13-21-101, WHICHEVER IS GREATER, FROM  
10 THE DATE ON WHICH THE CLAIM UNDER THIS PART 18 ACCRUED; OR

11 (II) THREE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS  
12 PART 18, WITH EACH VIOLATION OF THIS PART 18 CONSTITUTING A  
13 SEPARATE VIOLATION WITH RESPECT TO EACH CONSUMER, WORKER, OR  
14 TRANSACTION INVOLVED; OR

15 (b) THREE TIMES THE AMOUNT OF ACTUAL DAMAGES SUSTAINED,  
16 IF IT IS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT THE  
17 PERSON VIOLATING THIS PART 18 ENGAGED IN BAD FAITH CONDUCT OR  
18 INTENTIONALLY VIOLATED THIS PART 18.

19 **SECTION 3. Act subject to petition - effective date -**  
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
21 the expiration of the ninety-day period after final adjournment of the  
22 general assembly; except that, if a referendum petition is filed pursuant  
23 to section 1 (3) of article V of the state constitution against this act or an  
24 item, section, or part of this act within such period, then the act, item,  
25 section, or part will not take effect unless approved by the people at the  
26 general election to be held in November 2026 and, in such case, will take  
27 effect on the date of the official declaration of the vote thereon by the

1 governor.

2 (2) This act applies to conduct occurring on or after the applicable

3 effective date of this act.