Report of the
Task Force for the Consideration of
Facial Recognition Services
2023 Annual Report

Submitted to the
Joint Technology Committee

December 19, 2023

Task Force for the Consideration of Facial Recognition Services
Membership as of December 19, 2023

Task Force Members

State Senator	Senator Chris Hansen, Chair
State Representative	Brianna Titone, Vice-Chair
Colorado Bureau of Investigation	Chris Andrist
Higher Education	Dr. Steve Beaty
Colorado Association of School Boards	Matt Cook
Colorado District Attorney's Council	Christopher Johnson
Consumer Protection representative	Margot Kaminski
Governor's Office of Information Technology	Edward Nelson
Security Industry Association representative	Jake Parker
Colorado Association of Chiefs of Police	Michael Phibbs
Attorney General's Office	Dalia Ritvo
ACLU of Colorado	Anaya Robinson
Disproportionality Impacted Communities representative	Morgan Klaus Scheuerman
Attorney with Knowledge of Facial Recognition Laws	*Vacant*
Colorado Criminal Defense Bar	*Vacant*

Task Force Charge

The Task Force for the Consideration of Facial Recognition Services (task force) was created through [Senate Bill 22-113](). Pursuant to Section 2-3-1707, C.R.S., the task force must examine the extent to which state and local government agencies are currently using facial recognition services and provide recommendations concerning the extent to which it should be permitted.

Issues Studied by the Task Force

To date, that task force has met three times. The task force held an organizational meeting on Tuesday, November 29, 2022. The task force subsequently met on Tuesday, May 9, and Wednesday, December 13, 2023, to receive presentations on facial recognition services and related matters.

Facial recognition technology legislation. A representative of the National Conference of State Legislatures (NCSL) presented to the task force on various state legislative efforts concerning facial recognition technology. The NCSL representative highlighted facial recognition fundamentals and information on the challenges with regulating the technology. The representative also discussed facial recognition state regulations, comprehensive privacy legislation, and security breach and personal identifying information laws. In addition, the NCSL representative highlighted the use of biometrics in K-12 education. The representative concluded the presentation by discussing 2023 pending legislation in other states. Task force discussion included issues related to legislation in other states, including parental rights, law enforcement, private sector use, and other areas of interest.

Facial recognition technology used by law enforcement in Colorado. Representatives of the Colorado Information Sharing Consortium presented to the task force on the uses of facial recognition technology in Colorado. The task force and presenters discussed cross-border sharing of information and use of facial recognition technology for arrests and prosecutions.

Facial recognition technology in Colorado schools. The task force discussed the use of facial recognition technology in Colorado schools with representatives of St. Vrain Valley School District. The representatives covered current state laws related to the use of facial recognition technology in schools and highlighted specific exemptions and other educational privacy laws. They noted the possible need for additional exemptions for the use of facial recognition technology in schools, such as for exigent emergency circumstances and classroom curriculum use. They also discussed the use of facial recognition technology for school safety. Task force discussion ensued on ChatGPT, parental permission, data retention, and misidentification.

Artificial Intelligence (AI) and deepfake issues. A representative of NCSL presented on artificial intelligence and deepfake issues. She began by discussing deepfakes, including how they are created, and state laws addressing online impersonation. The representative noted that only a handful of states have specific deepfake laws with civil or criminal penalties. The task force learned that there are five bills pending in state legislatures related to watermarking and

disclosure requirements. These bills did not include legislation addressing election-related bills concerning deepfakes.

The task force discussed the use of deepfakes in campaigns and elections. The NCSL representative noted that some states have laws addressing misrepresentation of candidates or referendums, but the majority of states do not have specific laws related to the use of deepfakes in elections. Task force discussion ensued on the effectiveness of the state laws, enforcement provisions, constitutional considerations, and watermarking and disclosure.

Upcoming activities. The task force plans to continue its work through 2024 to discuss these and emerging issues. The task force may also meet to discuss legislation pending before the General Assembly. All meetings are open to the public.

Meeting Dates and Topics Discussed

Meeting summaries are prepared after each task force meeting. All handouts provided at each meeting are posted on the task force website. The list below contains the dates of the prior task force meetings and the topics discussed at those meetings. Meeting summaries are available on our website at:

https://leg.colorado.gov/content/ifacialrecognition2023ascheduleandmeetingmaterials

November 29, 2022
- Remarks from sponsors of Senate Bill 22-113
- Overview of task force charge and procedures
- Next steps and future meeting schedules

May 9, 2023
- Facial recognition legislative overview
- Facial recognition in Colorado
- Facial recognition technology *(canceled)*

December 13, 2023
- Facial recognition in Colorado schools
- AI and deepfake issues
- Other business

Policy Proposals or Reports

At this time, the task force has made no findings, recommendations, or legislative proposals regarding issues considered by the task force or current standards of conduct for the use of facial recognition services. The task force plans on remarking on possible legislation during the 2024 legislative session.