

CHAPTER 174

GOVERNMENT - STATE

HOUSE BILL 00-1395

BY REPRESENTATIVES Smith, Bacon, Clapp, Hagedorn, Kaufman, Kester, Miller, Plant, Scott, Spence, Stengel, Tupa, S. Williams, T. Williams, and Windels;
also SENATORS Blickensderfer, Evans, Hernandez, Linkhart, Martinez, Tebedo, and Weddig.

AN ACT

CONCERNING THE CREATION OF A TASK FORCE TO STUDY PRIVACY ISSUES RELATED TO INFORMATION POLICY, AND, IN CONNECTION THEREWITH, TO RECOMMEND LEGISLATION AND ADMINISTRATIVE POLICIES GOVERNING THE COLLECTION, RETENTION, AND USE OF INFORMATION BY PUBLIC AND PRIVATE ENTITIES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 37.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 3
TASK FORCE ON INFORMATION TECHNOLOGY**

24-37.5-301. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) THE EXPLOSIVE GROWTH OF COMPUTER TECHNOLOGY AND ITS EFFECT ON THE ABILITY OF PUBLIC AND PRIVATE ENTITIES TO COLLECT, STORE, AND TRANSFER INFORMATION HAS CREATED AN URGENT NEED TO EXAMINE CURRENT POLICIES CONCERNING THE APPROPRIATE USES OF INFORMATION AND THE LIMITS ON ITS COLLECTION, STORAGE, AND TRANSFER;

(b) SUCH EXAMINATION WILL REQUIRE FOCUS ON LONG-TERM ISSUES THAT OUR SOCIETY IS JUST BEGINNING TO FORMULATE AND DEBATE; AND

(c) THE COMPLEX AND INTERRELATED NATURE OF THESE ISSUES PRECLUDES A PARTIAL OR PIECEMEAL APPROACH.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) THEREFORE, A BROAD AND COMPREHENSIVE APPROACH, INVOKING CONTRIBUTIONS FROM MANY PERSONS FROM A VARIETY OF BACKGROUNDS AND PERSPECTIVES, IS NEEDED TO ARRIVE AT POLICIES THAT WILL BE EFFECTIVE, COHERENT, AND HARMONIOUS.

24-37.5-302. Task force on information policy - creation. (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF STATE, A TASK FORCE ON INFORMATION POLICY TO MEET BEFORE AND DURING THE 2001 INTERIM. THE TASK FORCE SHALL RECOMMEND LEGISLATION FOR THE 2002 LEGISLATIVE SESSION, AS WELL AS ADMINISTRATIVE POLICIES TO BE ADOPTED BY STATE AGENCIES, GOVERNING THE APPROPRIATE COLLECTION, STORAGE, AND TRANSFER OF DATA BY AND AMONG INFORMATION SYSTEMS, BOTH PUBLIC AND PRIVATE.

(2) THE TASK FORCE SHALL CONSIST OF TWENTY-ONE MEMBERS, AS FOLLOWS:

(a) THE SECRETARY OF STATE OR HIS OR HER DESIGNEE;

(b) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE;

(c) THE FOLLOWING SEVENTEEN MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF EXECUTIVE-BRANCH GOVERNMENT AGENCIES OTHER THAN THE DEPARTMENT OF STATE AND THE OFFICE OF THE ATTORNEY GENERAL;

(II) ONE REPRESENTATIVE OF THE JUDICIAL BRANCH OF GOVERNMENT, NOMINATED BY THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

(III) FIFTEEN PERSONS WHO ARE NOT CURRENTLY EMPLOYEES OF STATE GOVERNMENT. THESE FIFTEEN MEMBERS SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE GOVERNOR, AND EACH SHALL REPRESENT ONE OR MORE OF THE FOLLOWING GROUPS: CONSUMERS; PERSONS FIFTY-FIVE YEARS OF AGE OR OLDER; PROVIDERS OR COLLECTORS OF ELECTRONIC INFORMATION PERTAINING TO INDIVIDUALS; BANKS AND PROVIDERS OF FINANCIAL SERVICES; COUNTY CLERKS AND RECORDERS; HEALTH CARE PROVIDERS; PHARMACEUTICAL RESEARCHERS AND MANUFACTURERS; MEDICAL RESEARCHERS AND MANUFACTURERS; INSURERS OR INSURANCE AGENCIES; BUSINESSES ENGAGED IN TELEMARKETING OR DIRECT MAIL MARKETING; PROVIDERS OF TELECOMMUNICATIONS SERVICE; SMALL BUSINESSES; ATTORNEYS; PRIVATE INVESTIGATORS; OR LAW ENFORCEMENT AGENCIES.

(d) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES AND ONE MEMBER OF THE SENATE, APPOINTED IN ACCORDANCE WITH APPLICABLE RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE RESPECTIVELY.

(3) THE SECRETARY OF STATE OR HIS OR HER DESIGNEE SHALL SERVE AS CHAIRPERSON OF THE TASK FORCE.

(4) MEMBERS OF THE TASK FORCE SHALL BE APPOINTED WITHIN NINETY DAYS FOLLOWING THE EFFECTIVE DATE OF THIS PART 3.

(5) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION OTHER THAN REIMBURSEMENT FOR THEIR REASONABLE AND ACTUAL EXPENSES INCURRED TO

ATTEND MEETINGS.

(6) MEMBERS OF THE TASK FORCE SHALL REPRESENT AS BROAD A SPECTRUM AS POSSIBLE OF THE CONSTITUENCY THEY WERE APPOINTED TO REPRESENT AND SHALL ADVOCATE THE VIEWS OF SUCH CONSTITUENCY IN A FAIR AND UNBIASED MANNER.

(7) VACANCIES SHALL BE FILLED BY APPOINTMENT BY THE OFFICIAL WHO APPOINTED THE MEMBER WHOSE ABSENCE RESULTED IN THE VACANCY. THE COMPOSITION OF THE TASK FORCE AS SET FORTH IN SUBSECTION (2) OF THIS SECTION SHALL BE MAINTAINED.

24-37.5-303. Duties of task force - hearings - report - funding. (1) THE TASK FORCE CREATED IN SECTION 24-37.5-302 SHALL MEET AT LEAST QUARTERLY, BEGINNING IN SEPTEMBER, 2000, OR AS SOON THEREAFTER AS THE SECRETARY OF STATE CERTIFIES THAT ADEQUATE FUNDING IS AVAILABLE AS CONTEMPLATED IN SUBSECTIONS (5) AND (6) OF THIS SECTION, TO:

(a) IDENTIFY THE TYPES OF PERSONAL INFORMATION ABOUT INDIVIDUALS THAT IS NOW BEING COLLECTED BY THE STATE AND BY POLITICAL SUBDIVISIONS OF THE STATE AND HOW SUCH INFORMATION, ONCE COLLECTED, IS USED;

(b) IDENTIFY HOW THE STATE AND ITS POLITICAL SUBDIVISIONS DISSEMINATE PERSONAL INFORMATION ABOUT INDIVIDUALS, INCLUDING BUT NOT LIMITED TO THE SELLING OR GIVING OF SUCH INFORMATION TO COMMERCIAL ENTERPRISES;

(c) IDENTIFY, IN STATE LAW AND ADMINISTRATIVE RULES, EXISTING PROTECTIONS AGAINST UNWARRANTED DISCLOSURE OF PERSONAL INFORMATION ABOUT INDIVIDUALS AND RECOMMEND LEGISLATION OR RULE CHANGES TO ENHANCE SUCH PROTECTIONS;

(d) ASSESS THE IMPACT OF EVOLVING TECHNOLOGIES ON THE COLLECTION, DISSEMINATION, AND USE OF PERSONAL DATA BY STATE GOVERNMENT AND PRIVATE ENTITIES;

(e) IDENTIFY THE BENEFITS AND DETRIMENTS OF INFORMATION SHARING BY AND AMONG ENTITIES THAT COLLECT, STORE, AND DISSEMINATE INFORMATION RELATING TO INDIVIDUALS AND BUSINESSES;

(f) ASCERTAIN THE PROPER ROLE OF STATE GOVERNMENT IN THE CONTEXT OF FEDERAL LAW AND RULES IN ESTABLISHING STATUTORY AND REGULATORY PRIVACY PROTECTIONS;

(g) EXAMINE STATE STATUTES AND RULES THAT PROHIBIT, REQUIRE, OR PERMIT SHARING OF PERSONAL INFORMATION AMONG PRIVATE NONPROFIT AND FOR-PROFIT ENTITIES, INCLUDING, WITHOUT LIMITATION, ENTITIES IN THE HEALTH CARE AND FINANCIAL SERVICES INDUSTRIES;

(h) EDUCATE AND INFORM THE PUBLIC, FOCUS PUBLIC DEBATE, AND SUGGEST PERSONAL PRIVACY SAFEGUARDS;

(i) RECOMMEND STEPS TO ENSURE THAT PERSONAL INFORMATION TRANSMITTED

TO, BY, OR FROM STATE AGENCIES IN ELECTRONIC FORMAT IS ADEQUATELY ENCRYPTED AND SECURED TO PROTECT INDIVIDUALS' PRIVACY; AND

(j) RECOMMEND LEGISLATION OR CHANGES IN ADMINISTRATIVE POLICY GOVERNING THE COLLECTION, STORAGE, AND TRANSFER OF DATA AMONG AND WITHIN THE FOLLOWING:

(I) THE STATE AND ITS POLITICAL SUBDIVISIONS;

(II) PRIVATE CORPORATIONS AND OTHER PRIVATE ENTITIES ORGANIZED FOR PROFIT; AND

(III) PRIVATE NONPROFIT ENTITIES.

(2) THE TASK FORCE SHALL REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY AND THE GOVERNOR IN ACCORDANCE WITH SECTION 24-1-136 (9). THE REPORT SHALL BE SUBMITTED NO LATER THAN DECEMBER 1, 2001, AND SHALL CONTAIN THE TASK FORCE'S RECOMMENDATIONS ON ALL ISSUES ON WHICH TWO-THIRDS OR MORE OF THE MEMBERS OF THE TASK FORCE AGREE. IN ADDITION, A MINORITY REPORT ON ANY OF SUCH ISSUES SHALL BE INCLUDED AT THE REQUEST OF ONE OR MORE OF THE DISSENTING MEMBERS.

(3) THE SECRETARY OF STATE SHALL FACILITATE, COORDINATE, AND ACCOUNT FOR THE ACCEPTANCE OF FUNDING FROM SOURCES DESCRIBED IN SUBSECTION (4) OF THIS SECTION IN ORDER TO FURNISH THE TASK FORCE WITH SUCH SERVICES AS THE TASK FORCE MAY REQUEST, INCLUDING, WITHOUT LIMITATION:

(a) ADMINISTRATIVE ASSISTANCE, MEETING SPACE, AND OTHER NECESSARY FACILITIES AND SUPPORT SERVICES AS THE TASK FORCE MAY REQUEST;

(b) POSTAGE AND PRINTING;

(c) ARRANGING FOR, COORDINATING, AND KEEPING RECORDS OF MEETINGS; AND

(d) PREPARATION AND DISTRIBUTION OF AGENDAS, MINUTES, AND REPORTS.

(4) UNLESS OTHERWISE PROHIBITED BY LAW, COSTS ASSOCIATED WITH THE TASK FORCE AND ITS ACTIVITIES SHALL BE FULLY DEFRAYED BY MONETARY OR IN-KIND CONTRIBUTIONS FROM STATE, FEDERAL, REGIONAL, COUNTY, MUNICIPAL, SPECIAL DISTRICT, OR OTHER GOVERNMENTAL UNITS OR SUBDIVISIONS; PRIVATE BUSINESS AND INDUSTRY; NONPROFIT ORGANIZATIONS; AND OTHER SOURCES. THE SECRETARY OF STATE IS AUTHORIZED TO, AND SHALL, ACCEPT SUCH CONTRIBUTIONS AND SHALL DEPOSIT SUCH CONTRIBUTIONS IN THE DEPARTMENT OF STATE CASH FUND. PAYMENT OF THE COSTS ASSOCIATED WITH THE TASK FORCE AND ITS ACTIVITIES SHALL BE PAID BY THE SECRETARY OF STATE FROM THE DEPARTMENT OF STATE CASH FUND IN ACCORDANCE WITH THE BUDGET PREPARED BY THE SECRETARY OF STATE AND APPROVED BY THE TASK FORCE AS PROVIDED IN SUBSECTION (6) OF THIS SECTION. NONE OF SUCH COSTS SHALL BE PAID FROM THE GENERAL FUND OF THE STATE. NOTWITHSTANDING ANY PROVISION OF THIS PART 3 TO THE CONTRARY, THE TASK FORCE SHALL NOT MEET AND NO COSTS ASSOCIATED WITH THE TASK FORCE AND ITS ACTIVITIES SHALL BE PAID UNTIL THE SECRETARY OF STATE CERTIFIES THAT

SUFFICIENT CONTRIBUTIONS HAVE BEEN RECEIVED TO PAY THE FULL AMOUNT OF THE ESTIMATED COSTS AND EXPENSES SET FORTH IN THE BUDGET PREPARED AND APPROVED AS PROVIDED IN SUBSECTION (6) OF THIS SECTION.

(5) ALL MEETINGS OF THE TASK FORCE, INCLUDING MEETINGS OF ANY SUBCOMMITTEES CREATED BY THE TASK FORCE, SHALL BE OPEN TO THE PUBLIC. THE TASK FORCE AND ALL SUBCOMMITTEES SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT AT EACH MEETING. IF WRITTEN COMMENTS ARE SUBMITTED BY THE PUBLIC TO THE TASK FORCE OR A SUBCOMMITTEE, THE WRITTEN COMMENTS SHALL BE MADE AVAILABLE TO ALL TASK FORCE MEMBERS. THE TASK FORCE SHALL INCLUDE A SUMMARY OF ALL TESTIMONY AND WRITTEN COMMENTS SUBMITTED TO THE TASK FORCE IN THE REPORT MADE BY THE TASK FORCE PURSUANT TO THIS SECTION.

(6) **Funding.** WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS PART 3, THE SECRETARY OF STATE SHALL PREPARE A BUDGET, FOR THE TASK FORCE'S APPROVAL, ESTIMATING THE COSTS AND EXPENSES FOR MINISTERIAL SERVICES AS SET FORTH IN SUBSECTION (3) OF THIS SECTION AND FOR EXPERT SERVICES NECESSARY TO ASSIST THE TASK FORCE IN CONDUCTING ITS ACTIVITIES AND PREPARING ITS REPORT. THE SECRETARY OF STATE SHALL ALSO PREPARE A WORK PLAN FOR THE TASK FORCE'S APPROVAL, WHICH WORK PLAN SHALL INCLUDE RECOMMENDATIONS ON THE BUDGET AMOUNTS TO BE ALLOCATED TO THE ITEMS SET FORTH IN SUBSECTION (1) OF THIS SECTION AND THE RESOURCES AVAILABLE TO ADDRESS SUCH ISSUES.

24-37.5-304. Repeal of part. THIS PART 3 IS REPEALED, EFFECTIVE JUNE 30, 2002.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the secretary of state, special purpose, for the task force on information policy, for the fiscal year beginning July 1, 2000, the sum of twenty-six thousand eight hundred seventy-two dollars (\$26,872), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be cash funds exempt from contributions from state, federal, regional, county, municipal, special district, or other governmental units or subdivisions; private business and industry; nonprofit organizations; and other sources.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 23, 2000