

STATE PRIVACY & SECURITY COALITION

March 21, 2024

Jessie Danielson, Chair
Nick Hinrichsen, Vice Chair
Senate Committee on Business, Labor, and Technology
Old Supreme Court
Denver, CO 80203

Re: **CO HB24-1058 (Neural Data)**

Dear Chair Danielson, Vice Chair Hinrichsen and Members of the Committee,

The State Privacy & Security Coalition, a coalition of over 30 companies and six trade associations in the telecom, technology, retail, payment card, and automobile sectors, writes in opposition – without important definitional amendments - to HB24-1058. As drafted it is overbroad, because the proposed language does not align with the stated intent of the bill.

We are concerned by the current breadth of the "neural data" definition. As currently drafted, the phrase "generated by the measurement" in reference to both the central nervous system and the peripheral nervous system because this language would relate to ***nearly all bodily activities***. We are also concerned by the phrase "peripheral nervous system" because it arguably includes data about ***any observable human action***. All human actions and behaviors result from activity of the peripheral nervous system ("PNS").

Additionally, the term "biological data" includes the term "neural properties," but it is not clear how "neural data" would differ from "neural properties," or why that term is included within the "biological data" definition.

The current definition of "Sensitive Data" in the CPA already includes the terms "Biometric Data" which covers any technological processing or measurement of "an individual's biological, physical, or behavioral characteristics," as well as genetic data and "a mental or physical health condition." It is not clear what type of data would not be covered already by these definitions. Any attempt to close this gap should be narrowly tailored, as these are new terms that do not exist in any state privacy law.

We respectfully recommend refining the scope of the "biological data" definition and "neural data" definition to align with the bill's intended purpose. Our recommendations are as follows:

- "Biological data" means data generated by the technological processing, measurement, or analysis of an individual's genetic, biochemical, or physiological properties, neural data, compositions, or activities of an individual's body or bodily functions, which data is used or intended to be used, singly or in combination with other personal data, for identification purposes.
- "Neural data" means information generated by the ***direct*** measurement of the neural activity of the central nervous system or ***of the nerves*** in the peripheral nervous system, and that can be processed by or with the assistance of a device.

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We would be happy to answer any questions and welcome discussions with you, your staff, and other stakeholders on this bill as it moves forward.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Andrew A. Kingman", is placed on a light gray rectangular background.

Andrew A. Kingman
Counsel, State Privacy & Security Coalition