

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 18-0270.02 Jane Ritter x4342

**HOUSE BILL 18-1128**

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**HOUSE SPONSORSHIP**

**Wist and Bridges,**

**SENATE SPONSORSHIP**

**Lambert and Court,**

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**House Committees**

State, Veterans, & Military Affairs  
Appropriations

**Senate Committees**

State, Veterans, & Military Affairs

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**A BILL FOR AN ACT**

101 **CONCERNING STRENGTHENING PROTECTIONS FOR CONSUMER DATA**  
102 **PRIVACY.**

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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>.)*

Except for conduct in compliance with applicable federal, state, or local law, the bill requires public and private entities in Colorado that maintain paper or electronic documents (documents) that contain personal identifying information (personal information) to develop and maintain a written policy for the destruction and proper disposal of those documents. Entities that maintain, own, or license personal information,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

SENATE  
Amended 2nd Reading  
May 2, 2018

HOUSE  
3rd Reading Unamended  
April 20, 2018

HOUSE  
Amended 2nd Reading  
April 19, 2018

including those that use a nonaffiliated third party as a service provider, shall implement and maintain reasonable security procedures for the personal information. The notification laws governing disclosure of unauthorized acquisitions of unencrypted and encrypted computerized data are expanded to specify who must be notified following such unauthorized acquisition and what must be included in such notification.

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

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-713, **amend** (1),  
3 (2), and (3) as follows:

4 **6-1-713. Disposal of personal identifying information - policy**  
5 **- definitions.** (1) Each ~~public and private~~ COVERED entity in the state that  
6 ~~uses~~ MAINTAINS PAPER OR ELECTRONIC documents during the course of  
7 business that contain personal identifying information shall develop a  
8 WRITTEN policy for the destruction or proper disposal of THOSE paper AND  
9 ELECTRONIC documents containing personal identifying information.  
10 UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW OR  
11 REGULATION, THE WRITTEN POLICY MUST REQUIRE THAT, WHEN SUCH  
12 PAPER OR ELECTRONIC DOCUMENTS ARE NO LONGER NEEDED, THE  
13 COVERED ENTITY SHALL DESTROY OR ARRANGE FOR THE DESTRUCTION OF  
14 SUCH PAPER AND ELECTRONIC DOCUMENTS WITHIN ITS CUSTODY OR  
15 CONTROL THAT CONTAIN PERSONAL IDENTIFYING INFORMATION BY  
16 SHREDDING, ERASING, OR OTHERWISE MODIFYING THE PERSONAL  
17 IDENTIFYING INFORMATION IN THE PAPER OR ELECTRONIC DOCUMENTS TO  
18 MAKE THE PERSONAL IDENTIFYING INFORMATION UNREADABLE OR  
19 INDECIPHERABLE THROUGH ANY MEANS.

20 (2) For the purposes of this section AND SECTION 6-1-713.5:

21 (a) "COVERED ENTITY" MEANS A PERSON, AS DEFINED IN SECTION  
22 6-1-102(6), THAT MAINTAINS, OWNS, OR LICENSES PERSONAL IDENTIFYING

1 INFORMATION IN THE COURSE OF THE PERSON'S BUSINESS, VOCATION, OR  
2 OCCUPATION. "COVERED ENTITY" DOES NOT INCLUDE A PERSON ACTING  
3 AS A THIRD-PARTY SERVICE PROVIDER AS DEFINED IN SECTION 6-1-713.5.

4 (b) "Personal identifying information" means a social security  
5 number; a personal identification number; a password; a pass code; an  
6 official state or government-issued driver's license or identification card  
7 number; a government passport number; biometric data, AS DEFINED IN  
8 SECTION 6-1-716 (1)(a); an employer, student, or military identification  
9 number; or a financial transaction device, AS DEFINED IN SECTION  
10 18-5-701 (3).

11 (3) ~~A public entity that is managing its records in compliance with~~  
12 ~~part 1 of article 80 of title 24, C.R.S., shall be deemed to have met its~~  
13 ~~obligations under subsection (1) of this section~~ A COVERED ENTITY THAT  
14 IS REGULATED BY STATE OR FEDERAL LAW AND THAT MAINTAINS  
15 PROCEDURES FOR DISPOSAL OF PERSONAL IDENTIFYING INFORMATION  
16 PURSUANT TO THE LAWS, RULES, REGULATIONS, GUIDANCES, OR  
17 GUIDELINES ESTABLISHED BY ITS STATE OR FEDERAL REGULATOR IS IN  
18 COMPLIANCE WITH THIS SECTION.

19 **SECTION 2.** In Colorado Revised Statutes, **add** 6-1-713.5 as  
20 follows:

21 **6-1-713.5. Protection of personal identifying information -**  
22 **definition.** (1) TO PROTECT PERSONAL IDENTIFYING INFORMATION, AS  
23 DEFINED IN SECTION 6-1-713 (2), FROM UNAUTHORIZED ACCESS, USE,  
24 MODIFICATION, DISCLOSURE, OR DESTRUCTION, A COVERED ENTITY THAT  
25 MAINTAINS, OWNS, OR LICENSES PERSONAL IDENTIFYING INFORMATION OF  
26 AN INDIVIDUAL RESIDING IN THE STATE SHALL IMPLEMENT AND MAINTAIN  
27 REASONABLE SECURITY PROCEDURES AND PRACTICES THAT ARE

1 APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
2 INFORMATION AND THE NATURE AND SIZE OF THE BUSINESS AND ITS  
3 OPERATIONS.

4 (2) UNLESS A COVERED ENTITY AGREES TO PROVIDE ITS OWN  
5 SECURITY PROTECTION FOR THE INFORMATION IT DISCLOSES TO A  
6 THIRD-PARTY SERVICE PROVIDER, THE COVERED ENTITY SHALL REQUIRE  
7 THAT THE THIRD-PARTY SERVICE PROVIDER IMPLEMENT AND MAINTAIN  
8 REASONABLE SECURITY PROCEDURES AND PRACTICES THAT ARE:

9 (a) APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
10 INFORMATION DISCLOSED TO THE THIRD-PARTY SERVICE PROVIDER; AND

11 (b) REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL  
12 IDENTIFYING INFORMATION FROM UNAUTHORIZED ACCESS, USE,  
13 MODIFICATION, DISCLOSURE, OR DESTRUCTION.

14 (3) FOR THE PURPOSES OF SUBSECTION (2) OF THIS SECTION, A  
15 DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION DOES NOT INCLUDE  
16 DISCLOSURE OF INFORMATION TO A THIRD PARTY UNDER CIRCUMSTANCES  
17 WHERE THE COVERED ENTITY RETAINS PRIMARY RESPONSIBILITY FOR  
18 IMPLEMENTING AND MAINTAINING REASONABLE SECURITY PROCEDURES  
19 AND PRACTICES APPROPRIATE TO THE NATURE OF THE PERSONAL  
20 IDENTIFYING INFORMATION AND THE COVERED ENTITY IMPLEMENTS AND  
21 MAINTAINS TECHNICAL CONTROLS THAT ARE REASONABLY DESIGNED TO:

22 (a) HELP PROTECT THE PERSONAL IDENTIFYING INFORMATION  
23 FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR  
24 DESTRUCTION; OR

25 (b) EFFECTIVELY ELIMINATE THE THIRD PARTY'S ABILITY TO  
26 ACCESS THE PERSONAL IDENTIFYING INFORMATION, NOTWITHSTANDING  
27 THE THIRD PARTY'S PHYSICAL POSSESSION OF THE PERSONAL IDENTIFYING

1 INFORMATION.

2 (4) A COVERED ENTITY THAT IS REGULATED BY STATE OR FEDERAL  
3 LAW AND THAT MAINTAINS PROCEDURES FOR PROTECTION OF PERSONAL  
4 IDENTIFYING INFORMATION PURSUANT TO THE LAWS, RULES,  
5 REGULATIONS, GUIDANCES, OR GUIDELINES ESTABLISHED BY ITS STATE OR  
6 FEDERAL REGULATOR IS IN COMPLIANCE WITH THIS SECTION.

7 (5) FOR THE PURPOSES OF THIS SECTION, "THIRD-PARTY SERVICE  
8 PROVIDER" MEANS AN ENTITY THAT HAS BEEN CONTRACTED \_\_\_\_\_ TO  
9 MAINTAIN, STORE, OR PROCESS PERSONAL IDENTIFYING INFORMATION ON  
10 BEHALF OF A COVERED ENTITY.

11 **SECTION 3.** In Colorado Revised Statutes, 6-1-716, **amend** (2),  
12 (3), and (4); **repeal and reenact, with amendments,** (1); and **add** (5) as  
13 follows:

14 **6-1-716. Notification of security breach. (1) Definitions.** AS  
15 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 (a) "BIOMETRIC DATA" MEANS UNIQUE BIOMETRIC DATA  
17 GENERATED FROM MEASUREMENTS OR ANALYSIS OF HUMAN BODY  
18 CHARACTERISTICS FOR THE PURPOSE OF AUTHENTICATING THE INDIVIDUAL  
19 WHEN HE OR SHE ACCESSES AN ONLINE ACCOUNT.

20 (b) "COVERED ENTITY" MEANS A PERSON, AS DEFINED IN SECTION  
21 6-1-102 (6), THAT MAINTAINS, OWNS, OR LICENSES PERSONAL  
22 INFORMATION IN THE COURSE OF THE PERSON'S BUSINESS, VOCATION, OR  
23 OCCUPATION. "COVERED ENTITY" DOES NOT INCLUDE A PERSON ACTING  
24 AS A THIRD-PARTY SERVICE PROVIDER AS DEFINED IN SUBSECTION (1)(i)  
25 OF THIS SECTION.

26 (c) "DETERMINATION THAT A SECURITY BREACH OCCURRED"  
27 MEANS THE POINT IN TIME AT WHICH THERE IS SUFFICIENT EVIDENCE TO

1 CONCLUDE THAT A SECURITY BREACH HAS TAKEN PLACE.

2 (d) "ENCRYPTED" MEANS RENDERED UNUSABLE, UNREADABLE, OR  
3 INDECIPHERABLE TO AN UNAUTHORIZED PERSON THROUGH A SECURITY  
4 TECHNOLOGY OR METHODOLOGY GENERALLY ACCEPTED IN THE FIELD OF  
5 INFORMATION SECURITY.

6 (e) "MEDICAL INFORMATION" MEANS ANY INFORMATION ABOUT A  
7 CONSUMER'S MEDICAL OR MENTAL HEALTH TREATMENT OR DIAGNOSIS BY  
8 A HEALTH CARE PROFESSIONAL.

9 (f) "NOTICE" MEANS:

10 (I) WRITTEN NOTICE TO THE POSTAL ADDRESS LISTED IN THE  
11 RECORDS OF THE COVERED ENTITY;

12 (II) TELEPHONIC NOTICE;

13 (III) ELECTRONIC NOTICE, IF A PRIMARY MEANS OF  
14 COMMUNICATION BY THE COVERED ENTITY WITH A COLORADO RESIDENT  
15 IS BY ELECTRONIC MEANS OR THE NOTICE PROVIDED IS CONSISTENT WITH  
16 THE PROVISIONS REGARDING ELECTRONIC RECORDS AND SIGNATURES SET  
17 FORTH IN THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND  
18 NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ.; OR

19 (IV) SUBSTITUTE NOTICE, IF THE COVERED ENTITY REQUIRED TO  
20 PROVIDE NOTICE DEMONSTRATES THAT THE COST OF PROVIDING NOTICE  
21 WILL EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS, THE AFFECTED  
22 CLASS OF PERSONS TO BE NOTIFIED EXCEEDS TWO HUNDRED FIFTY  
23 THOUSAND COLORADO RESIDENTS, OR THE COVERED ENTITY DOES NOT  
24 HAVE SUFFICIENT CONTACT INFORMATION TO PROVIDE NOTICE.  
25 SUBSTITUTE NOTICE CONSISTS OF ALL OF THE FOLLOWING:

26 (A) E-MAIL NOTICE IF THE COVERED ENTITY HAS E-MAIL  
27 ADDRESSES FOR THE MEMBERS OF THE AFFECTED CLASS OF COLORADO

1 RESIDENTS;

2 (B) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE PAGE  
3 OF THE COVERED ENTITY IF THE COVERED ENTITY MAINTAINS ONE; AND

4 (C) NOTIFICATION TO MAJOR STATEWIDE MEDIA.

5 (g) (I) (A) "PERSONAL INFORMATION" MEANS A COLORADO  
6 RESIDENT'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION  
7 WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS THAT  
8 RELATE TO THE RESIDENT, WHEN THE DATA ELEMENTS ARE NOT  
9 ENCRYPTED, REDACTED, OR SECURED BY ANY OTHER METHOD RENDERING  
10 THE NAME OR THE ELEMENT UNREADABLE OR UNUSABLE: SOCIAL  
11 SECURITY NUMBER; STUDENT, MILITARY, OR PASSPORT IDENTIFICATION  
12 NUMBER; DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER;  
13 MEDICAL INFORMATION; HEALTH INSURANCE IDENTIFICATION NUMBER; OR  
14 BIOMETRIC DATA;

15 (B) A COLORADO RESIDENT'S USERNAME OR E-MAIL ADDRESS, IN  
16 COMBINATION WITH A PASSWORD OR SECURITY QUESTIONS AND ANSWERS,  
17 THAT WOULD PERMIT ACCESS TO AN ONLINE ACCOUNT; OR

18 (C) A COLORADO RESIDENT'S ACCOUNT NUMBER OR CREDIT OR  
19 DEBIT CARD NUMBER IN COMBINATION WITH ANY REQUIRED SECURITY  
20 CODE, ACCESS CODE, OR PASSWORD THAT WOULD PERMIT ACCESS TO THAT  
21 ACCOUNT.

22 (II) "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY  
23 AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE  
24 GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT  
25 RECORDS OR WIDELY DISTRIBUTED MEDIA.

26 (h) "SECURITY BREACH" MEANS THE UNAUTHORIZED ACQUISITION  
27 OF UNENCRYPTED COMPUTERIZED DATA THAT COMPROMISES THE

1 SECURITY, CONFIDENTIALITY, OR INTEGRITY OF PERSONAL INFORMATION  
2 MAINTAINED BY A COVERED ENTITY. GOOD FAITH ACQUISITION OF  
3 PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A COVERED  
4 ENTITY FOR THE COVERED ENTITY'S BUSINESS PURPOSES IS NOT A  
5 SECURITY BREACH IF THE PERSONAL INFORMATION IS NOT USED FOR A  
6 PURPOSE UNRELATED TO THE LAWFUL OPERATION OF THE BUSINESS OR IS  
7 NOT SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE.

8 (i) "THIRD-PARTY SERVICE PROVIDER" MEANS AN ENTITY THAT  
9 HAS BEEN CONTRACTED     TO MAINTAIN, STORE, OR PROCESS PERSONAL  
10 INFORMATION ON BEHALF OF A COVERED ENTITY.

11 (2) **Disclosure of breach.** (a) ~~An individual or a commercial A~~  
12 ~~COVERED entity that conducts business in Colorado and that~~ MAINTAINS,  
13 owns, or licenses computerized data that includes personal information  
14 about a resident of Colorado shall, when it ~~becomes aware of a breach, of~~  
15 the security of the system BECOMES AWARE THAT A SECURITY BREACH  
16 MAY HAVE OCCURRED, conduct in good faith a prompt investigation to  
17 determine the likelihood that personal information has been or will be  
18 misused. The ~~individual or the commercial~~ COVERED entity shall give  
19 notice ~~as soon as possible~~ to the affected Colorado ~~resident~~ RESIDENTS  
20 unless the investigation determines that the misuse of information about  
21 a Colorado resident has not occurred and is not reasonably likely to occur.  
22 Notice ~~shall~~ MUST be made in the most expedient time possible and  
23 without unreasonable delay, BUT NOT LATER THAN THIRTY DAYS AFTER  
24 THE DATE OF DETERMINATION THAT A SECURITY BREACH OCCURRED,  
25 consistent with the legitimate needs of law enforcement and consistent  
26 with any measures necessary to determine the scope of the breach and to  
27 restore the reasonable integrity of the computerized data system.



1           (a.2) IN THE CASE OF A BREACH OF PERSONAL INFORMATION,  
2 NOTICE REQUIRED BY THIS SUBSECTION (2) TO AFFECTED COLORADO  
3 RESIDENTS MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING  
4 INFORMATION:

5           (I) THE DATE, ESTIMATED DATE, OR ESTIMATED DATE RANGE OF  
6 THE SECURITY BREACH;

7           (II) A DESCRIPTION OF THE PERSONAL INFORMATION THAT WAS  
8 ACQUIRED OR REASONABLY BELIEVED TO HAVE BEEN ACQUIRED AS PART  
9 OF THE SECURITY BREACH;

10          (III) INFORMATION THAT THE RESIDENT CAN USE TO CONTACT THE  
11 COVERED ENTITY      TO INQUIRE ABOUT THE SECURITY BREACH;

12          (IV) THE TOLL-FREE NUMBERS, ADDRESSES, AND WEBSITES FOR  
13 CONSUMER REPORTING AGENCIES;

14          (V) THE TOLL-FREE NUMBER, ADDRESS, AND WEBSITE FOR THE  
15 FEDERAL TRADE COMMISSION; AND

16          (VI) A STATEMENT THAT THE RESIDENT CAN OBTAIN INFORMATION  
17 FROM THE FEDERAL TRADE COMMISSION AND THE CREDIT REPORTING  
18 AGENCIES ABOUT FRAUD ALERTS AND SECURITY FREEZES.

19          (a.3) IF AN INVESTIGATION BY THE COVERED ENTITY PURSUANT TO  
20 SUBSECTION (2)(a) OF THIS SECTION DETERMINES THAT THE TYPE OF  
21 PERSONAL INFORMATION DESCRIBED IN SUBSECTION (1)(g)(I)(B) OF THIS  
22 SECTION HAS BEEN MISUSED OR IS REASONABLY LIKELY TO BE MISUSED,  
23 THEN THE COVERED ENTITY SHALL, IN ADDITION TO THE NOTICE  
24 OTHERWISE REQUIRED BY SUBSECTION (2)(a.2) OF THIS SECTION AND IN  
25 THE MOST EXPEDIENT TIME POSSIBLE AND WITHOUT UNREASONABLE  
26 DELAY, BUT NOT LATER THAN THIRTY DAYS AFTER THE DATE OF  
27 DETERMINATION THAT A SECURITY BREACH OCCURRED, CONSISTENT WITH

1 THE LEGITIMATE NEEDS OF LAW ENFORCEMENT AND CONSISTENT WITH  
2 ANY MEASURES NECESSARY TO DETERMINE THE SCOPE OF THE BREACH  
3 AND TO RESTORE THE REASONABLE INTEGRITY OF THE COMPUTERIZED  
4 DATA SYSTEM:

5 (I) DIRECT THE PERSON WHOSE PERSONAL INFORMATION HAS BEEN  
6 BREACHED TO PROMPTLY CHANGE HIS OR HER PASSWORD AND SECURITY  
7 QUESTION OR ANSWER, AS APPLICABLE, OR TO TAKE OTHER STEPS  
8 APPROPRIATE TO PROTECT THE ONLINE ACCOUNT WITH THE COVERED  
9 ENTITY AND ALL OTHER ONLINE ACCOUNTS FOR WHICH THE PERSON WHOSE  
10 PERSONAL INFORMATION HAS BEEN BREACHED        USES THE SAME USER  
11 NAME OR E-MAIL ADDRESS AND PASSWORD OR SECURITY QUESTION OR  
12 ANSWER.

13 (II) FOR LOG-IN CREDENTIALS OF AN E-MAIL ACCOUNT FURNISHED  
14 BY THE COVERED ENTITY, THE COVERED ENTITY SHALL NOT COMPLY WITH  
15 THIS SECTION BY PROVIDING THE SECURITY BREACH NOTIFICATION TO  
16 THAT E-MAIL ADDRESS, BUT MAY INSTEAD COMPLY WITH THIS SECTION BY  
17 PROVIDING NOTICE THROUGH OTHER METHODS, AS DEFINED IN SUBSECTION  
18 (1)(f) OF THIS SECTION, OR BY CLEAR AND CONSPICUOUS NOTICE  
19 DELIVERED TO THE RESIDENT ONLINE WHEN THE RESIDENT IS CONNECTED  
20 TO THE ONLINE ACCOUNT FROM AN INTERNET PROTOCOL ADDRESS OR  
21 ONLINE LOCATION FROM WHICH THE COVERED ENTITY KNOWS THE  
22 RESIDENT CUSTOMARILY ACCESSES THE ACCOUNT.

23 (a.4) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED  
24 PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
25 SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
26 MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED IN  
27 THE SECURITY BREACH OR WAS REASONABLY BELIEVED TO HAVE BEEN

1 ACQUIRED.

2 (a.5) A COVERED ENTITY THAT IS REQUIRED TO PROVIDE NOTICE TO  
3 AFFECTED COLORADO RESIDENTS PURSUANT TO THIS SUBSECTION (2) IS  
4 PROHIBITED FROM CHARGING THE COST OF PROVIDING SUCH NOTICE TO  
5 SUCH RESIDENTS.

6 (a.6) NOTHING IN THIS SUBSECTION (2) PROHIBITS THE NOTICE  
7 DESCRIBED IN THIS SUBSECTION (2) FROM CONTAINING ADDITIONAL  
8 INFORMATION, INCLUDING ANY INFORMATION THAT MAY BE REQUIRED BY  
9 STATE OR FEDERAL LAW.

10 (b) ~~An individual or a commercial entity that maintains~~ IF A  
11 COVERED ENTITY USES A THIRD-PARTY SERVICE PROVIDER TO MAINTAIN  
12 computerized data that includes personal information, ~~that the individual~~  
13 ~~or the commercial entity does not own or license~~ THEN THE THIRD-PARTY  
14 SERVICE PROVIDER shall give notice to and cooperate with ~~the owner or~~  
15 ~~licensee of the information of any breach of the security of the system~~  
16 ~~immediately~~ THE COVERED ENTITY IN THE EVENT OF A SECURITY BREACH  
17 THAT COMPROMISES SUCH COMPUTERIZED DATA, INCLUDING NOTIFYING  
18 THE COVERED ENTITY OF ANY SECURITY BREACH IN THE MOST EXPEDIENT  
19 TIME POSSIBLE, AND WITHOUT UNREASONABLE DELAY following discovery  
20 of a SECURITY breach, if misuse of personal information about a Colorado  
21 resident occurred or is likely to occur. Cooperation includes sharing with  
22 ~~the owner or licensee~~ COVERED ENTITY information relevant to the  
23 SECURITY breach; except that such cooperation ~~shall not be deemed to~~  
24 DOES NOT require the disclosure of confidential business information or  
25 trade secrets.

26 (c) Notice required by this section may be delayed if a law  
27 enforcement agency determines that the notice will impede a criminal

1 investigation and the law enforcement agency has notified the individual  
2 or commercial COVERED entity that conducts business in Colorado not to  
3 send notice required by this section. Notice required by this section shall  
4 MUST be made in good faith, IN THE MOST EXPEDIENT TIME POSSIBLE AND  
5 without unreasonable delay and as soon as possible BUT NOT LATER THAN  
6 THIRTY DAYS after the law enforcement agency determines that  
7 notification will no longer impede the investigation and has notified the  
8 individual or commercial COVERED entity that conducts business in  
9 Colorado that it is appropriate to send the notice required by this section.

10 (d) If an individual or commercial A COVERED entity is required  
11 to notify more than one thousand Colorado residents of a SECURITY  
12 breach of the security of the system pursuant to this section, the individual  
13 or commercial COVERED entity shall also notify, IN THE MOST EXPEDIENT  
14 TIME POSSIBLE AND without unreasonable delay, all consumer reporting  
15 agencies that compile and maintain files on consumers on a nationwide  
16 basis, as defined by THE FEDERAL "FAIR CREDIT REPORTING ACT", 15  
17 U.S.C. sec. 1681a (p), of the anticipated date of the notification to the  
18 residents and the approximate number of residents who are to be notified.  
19 Nothing in this paragraph (d) shall be construed to require SUBSECTION  
20 (2)(d) REQUIRES the individual or commercial COVERED entity to provide  
21 to the consumer reporting agency the names or other personal information  
22 of SECURITY breach notice recipients. This paragraph (d) shall  
23 SUBSECTION (2)(d) DOES not apply to a person COVERED ENTITY who is  
24 subject to Title V of the federal "Gramm-Leach-Bliley Act", 15 U.S.C.  
25 sec. 6801 et seq.

26 (e) A WAIVER OF THESE NOTIFICATION RIGHTS OR  
27 RESPONSIBILITIES IS VOID AS AGAINST PUBLIC POLICY.

1           (f) (I) THE COVERED ENTITY THAT MUST NOTIFY COLORADO  
2           RESIDENTS OF A DATA BREACH PURSUANT TO THIS SECTION     SHALL  
3           PROVIDE NOTICE OF ANY SECURITY BREACH TO THE COLORADO ATTORNEY  
4           GENERAL IN THE MOST EXPEDIENT TIME POSSIBLE AND WITHOUT  
5           UNREASONABLE DELAY, BUT NOT LATER THAN THIRTY DAYS AFTER THE  
6           DATE OF DETERMINATION THAT A SECURITY BREACH OCCURRED, IF THE  
7           SECURITY BREACH IS REASONABLY BELIEVED TO HAVE AFFECTED FIVE  
8           HUNDRED COLORADO RESIDENTS OR MORE, UNLESS THE INVESTIGATION  
9           DETERMINES THAT THE MISUSE OF INFORMATION ABOUT A COLORADO  
10          RESIDENT HAS NOT OCCURRED AND IS NOT LIKELY TO OCCUR.

11           (II) THE COLORADO ATTORNEY GENERAL SHALL DESIGNATE A  
12           PERSON OR PERSONS AS A POINT OF CONTACT FOR FUNCTIONS SET FORTH  
13           IN THIS SUBSECTION (2)(f) AND SHALL MAKE THE CONTACT INFORMATION  
14           FOR THAT PERSON OR THOSE PERSONS PUBLIC ON THE ATTORNEY  
15           GENERAL'S WEBSITE AND BY ANY OTHER APPROPRIATE MEANS.

16           (g) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED  
17           PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
18           SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
19           MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED OR  
20           WAS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED IN THE SECURITY  
21           BREACH.

22           **(3) Procedures deemed in compliance with notice**  
23           **requirements.** (a) ~~Under~~ PURSUANT TO this section, ~~an individual or a~~  
24           ~~commercial~~ A COVERED entity that maintains its own notification  
25           procedures as part of an information security policy for the treatment of  
26           personal information and whose procedures are otherwise consistent with  
27           the timing requirements of this section ~~shall be deemed to be~~ IS in

1 compliance with the notice requirements of this section if the ~~individual~~  
2 ~~or the commercial~~ COVERED entity notifies affected Colorado customers  
3 RESIDENTS in accordance with its policies in the event of a ~~breach of~~  
4 ~~security of the system~~ SECURITY BREACH; EXCEPT THAT NOTICE TO THE  
5 ATTORNEY GENERAL IS STILL REQUIRED PURSUANT TO SUBSECTION (2)(f)  
6 OF THIS SECTION.

7 (b) ~~An individual or a commercial~~ A COVERED entity that is  
8 regulated by state or federal law and that maintains procedures for a  
9 SECURITY breach ~~of the security of the system~~ pursuant to the laws, rules,  
10 regulations, guidances, or guidelines established by its ~~primary or~~  
11 ~~functional~~ state or federal regulator is ~~deemed to be~~ in compliance with  
12 this section; EXCEPT THAT NOTICE TO THE ATTORNEY GENERAL IS STILL  
13 REQUIRED PURSUANT TO SUBSECTION (2)(f) OF THIS SECTION. IN THE CASE  
14 OF A CONFLICT BETWEEN THE TIME PERIOD FOR NOTICE TO INDIVIDUALS  
15 THAT IS REQUIRED PURSUANT TO THIS SUBSECTION (2) AND THE  
16 APPLICABLE STATE OR FEDERAL LAW OR REGULATION, THE LAW OR  
17 REGULATION WITH THE SHORTEST TIME FRAME FOR NOTICE TO THE  
18 INDIVIDUAL CONTROLS.

19 (4) **Violations.** The attorney general may bring an action in law  
20 or equity to address violations of this section, SECTION 6-1-713, OR  
21 SECTION 6-1-713.5, and for other relief that may be appropriate to ensure  
22 compliance with this section or to recover direct economic damages  
23 resulting from a violation, or both. The provisions of this section are not  
24 exclusive and do not relieve ~~an individual or a commercial~~ A COVERED  
25 entity subject to this section from compliance with all other applicable  
26 provisions of law.

27 (5) **Attorney general criminal authority.** UPON RECEIPT OF

1 NOTICE PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND WITH EITHER  
2 A REQUEST FROM THE GOVERNOR TO PROSECUTE A PARTICULAR CASE OR  
3 WITH THE APPROVAL OF THE DISTRICT ATTORNEY WITH JURISDICTION TO  
4 PROSECUTE CASES IN THE JUDICIAL DISTRICT WHERE A CASE \_\_\_ COULD BE  
5 BROUGHT, THE ATTORNEY GENERAL HAS THE AUTHORITY TO PROSECUTE  
6 ANY CRIMINAL VIOLATIONS OF SECTION 18-5.5-102.

7 **SECTION 4.** In Colorado Revised Statutes, **add** article 73 to title  
8 24 as follows:

9 **ARTICLE 73**

10 **Security Breaches and Personal Information**

11 **24-73-101. Governmental entity - disposal of personal**  
12 **identifying information - policy - definitions.** (1) EACH  
13 GOVERNMENTAL ENTITY IN THE STATE THAT MAINTAINS PAPER OR  
14 ELECTRONIC DOCUMENTS DURING THE COURSE OF BUSINESS THAT  
15 CONTAIN PERSONAL IDENTIFYING INFORMATION SHALL DEVELOP A  
16 WRITTEN POLICY FOR THE DESTRUCTION OR PROPER DISPOSAL OF THOSE  
17 PAPER AND ELECTRONIC DOCUMENTS CONTAINING PERSONAL IDENTIFYING  
18 INFORMATION. UNLESS OTHERWISE REQUIRED BY STATE OR FEDERAL LAW  
19 OR REGULATION, THE WRITTEN POLICY MUST REQUIRE THAT, WHEN SUCH  
20 PAPER OR ELECTRONIC DOCUMENTS ARE NO LONGER NEEDED, THE  
21 GOVERNMENTAL ENTITY DESTROY OR ARRANGE FOR THE DESTRUCTION OF  
22 SUCH PAPER AND ELECTRONIC DOCUMENTS WITHIN ITS CUSTODY OR  
23 CONTROL THAT CONTAIN PERSONAL IDENTIFYING INFORMATION BY  
24 SHREDDING, ERASING, OR OTHERWISE MODIFYING THE PERSONAL  
25 IDENTIFYING INFORMATION IN THE PAPER OR ELECTRONIC DOCUMENTS TO  
26 MAKE THE PERSONAL IDENTIFYING INFORMATION UNREADABLE OR  
27 INDECIPHERABLE THROUGH ANY MEANS.

1 (2) A GOVERNMENTAL ENTITY THAT IS REGULATED BY STATE OR  
2 FEDERAL LAW AND THAT MAINTAINS PROCEDURES FOR DISPOSAL OF  
3 PERSONAL IDENTIFYING INFORMATION PURSUANT TO THE LAWS, RULES,  
4 REGULATIONS, GUIDANCES, OR GUIDELINES ESTABLISHED BY ITS STATE OR  
5 FEDERAL REGULATOR IS IN COMPLIANCE WITH THIS SECTION.

6 (3) UNLESS A GOVERNMENTAL ENTITY SPECIFICALLY CONTRACTS  
7 WITH A RECYCLER OR DISPOSAL FIRM FOR DESTRUCTION OF DOCUMENTS  
8 THAT CONTAIN PERSONAL IDENTIFYING INFORMATION, NOTHING IN THIS  
9 SECTION REQUIRES A RECYCLER OR DISPOSAL FIRM TO VERIFY THAT THE  
10 DOCUMENTS CONTAINED IN THE PRODUCTS IT RECEIVES FOR DISPOSAL OR  
11 RECYCLING HAVE BEEN PROPERLY DESTROYED OR DISPOSED OF AS  
12 REQUIRED BY THIS SECTION.

13 (4) FOR THE PURPOSES OF THIS SECTION AND SECTION 24-73-102,  
14 UNLESS THE CONTEXT OTHERWISE REQUIRES:

15 (a) "GOVERNMENTAL ENTITY" MEANS THE STATE AND ANY STATE  
16 AGENCY OR INSTITUTION, INCLUDING THE JUDICIAL DEPARTMENT,  
17 COUNTY, CITY AND COUNTY, INCORPORATED CITY OR TOWN, SCHOOL  
18 DISTRICT, SPECIAL IMPROVEMENT DISTRICT, AUTHORITY, AND EVERY  
19 OTHER KIND OF DISTRICT, INSTRUMENTALITY, OR POLITICAL SUBDIVISION  
20 OF THE STATE ORGANIZED PURSUANT TO LAW. "GOVERNMENTAL ENTITY"  
21 INCLUDES ENTITIES GOVERNED BY HOME RULE CHARTERS.  
22 "GOVERNMENTAL ENTITY" DOES NOT INCLUDE AN ENTITY ACTING AS A  
23 THIRD-PARTY SERVICE PROVIDER AS DEFINED IN SECTION 24-73-102.

24 (b) "PERSONAL IDENTIFYING INFORMATION" MEANS A SOCIAL  
25 SECURITY NUMBER; A PERSONAL IDENTIFICATION NUMBER; A PASSWORD;  
26 A PASS CODE; AN OFFICIAL STATE OR GOVERNMENT-ISSUED DRIVER'S  
27 LICENSE OR IDENTIFICATION CARD NUMBER; A GOVERNMENT PASSPORT



1 NUMBER; BIOMETRIC DATA, AS DEFINED IN SECTION 24-73-103 (1)(a); AN  
2 EMPLOYER, STUDENT, OR MILITARY IDENTIFICATION NUMBER; OR A  
3 FINANCIAL TRANSACTION DEVICE, AS DEFINED IN SECTION 18-5-701 (3).

4 **24-73-102. Governmental entity - protection of personal**  
5 **identifying information - definition.** (1) TO PROTECT PERSONAL  
6 IDENTIFYING INFORMATION, AS DEFINED IN SECTION 24-73-101 (4)(b),  
7 FROM UNAUTHORIZED ACCESS, USE, MODIFICATION, DISCLOSURE, OR  
8 DESTRUCTION, A GOVERNMENTAL ENTITY THAT MAINTAINS, OWNS, OR  
9 LICENSES PERSONAL IDENTIFYING INFORMATION SHALL IMPLEMENT AND  
10 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT ARE  
11 APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
12 INFORMATION AND THE NATURE AND SIZE OF THE GOVERNMENTAL ENTITY.

13 (2) UNLESS A GOVERNMENTAL ENTITY AGREES TO PROVIDE ITS  
14 OWN SECURITY PROTECTION FOR THE INFORMATION IT DISCLOSES TO A  
15 THIRD-PARTY SERVICE PROVIDER, THE GOVERNMENTAL ENTITY SHALL  
16 REQUIRE THAT THE THIRD-PARTY SERVICE PROVIDER IMPLEMENT AND  
17 MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES THAT  
18 ARE:

19 (a) APPROPRIATE TO THE NATURE OF THE PERSONAL IDENTIFYING  
20 INFORMATION DISCLOSED TO THE THIRD-PARTY SERVICE PROVIDER; AND

21 (b) REASONABLY DESIGNED TO HELP PROTECT THE PERSONAL  
22 IDENTIFYING INFORMATION FROM UNAUTHORIZED ACCESS, USE,  
23 MODIFICATION, DISCLOSURE, OR DESTRUCTION.

24 (3) FOR THE PURPOSES OF SUBSECTION (2) OF THIS SECTION, A  
25 DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION DOES NOT INCLUDE  
26 DISCLOSURE OF INFORMATION TO A THIRD PARTY UNDER CIRCUMSTANCES  
27 WHERE THE GOVERNMENTAL ENTITY RETAINS PRIMARY RESPONSIBILITY

1 FOR IMPLEMENTING AND MAINTAINING REASONABLE SECURITY  
2 PROCEDURES AND PRACTICES APPROPRIATE TO THE NATURE OF THE  
3 PERSONAL IDENTIFYING INFORMATION AND THE GOVERNMENTAL ENTITY  
4 IMPLEMENTS AND MAINTAINS TECHNICAL CONTROLS REASONABLY  
5 DESIGNED TO:

6 (a) HELP PROTECT THE PERSONAL IDENTIFYING INFORMATION  
7 FROM UNAUTHORIZED ACCESS, MODIFICATION, DISCLOSURE, OR  
8 DESTRUCTION; OR

9 (b) EFFECTIVELY ELIMINATE THE THIRD PARTY'S ABILITY TO  
10 ACCESS THE PERSONAL IDENTIFYING INFORMATION, NOTWITHSTANDING  
11 THE THIRD PARTY'S PHYSICAL POSSESSION OF THE PERSONAL IDENTIFYING  
12 INFORMATION.

13 (4) A GOVERNMENTAL ENTITY THAT IS REGULATED BY STATE OR  
14 FEDERAL LAW AND THAT MAINTAINS PROCEDURES FOR STORAGE OF  
15 PERSONAL IDENTIFYING INFORMATION PURSUANT TO THE LAWS, RULES,  
16 REGULATIONS, GUIDANCES, OR GUIDELINES ESTABLISHED BY ITS STATE OR  
17 FEDERAL REGULATOR IS IN COMPLIANCE WITH THIS SECTION.

18 (5) FOR THE PURPOSES OF THIS SECTION, "THIRD-PARTY SERVICE  
19 PROVIDER" MEANS AN ENTITY THAT HAS BEEN CONTRACTED        TO  
20 MAINTAIN, STORE, OR PROCESS PERSONAL IDENTIFYING INFORMATION ON  
21 BEHALF OF A GOVERNMENTAL ENTITY.

22 **24-73-103. Governmental entity - notification of security**  
23 **breach. (1) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT  
24 OTHERWISE REQUIRES:

25 (a) "BIOMETRIC DATA" MEANS UNIQUE BIOMETRIC DATA  
26 GENERATED FROM MEASUREMENTS OR ANALYSIS OF HUMAN BODY  
27 CHARACTERISTICS FOR THE PURPOSE OF AUTHENTICATING THE INDIVIDUAL

1 WHEN HE OR SHE ACCESSES AN ONLINE ACCOUNT.

2 (b) "DETERMINATION THAT A SECURITY BREACH OCCURRED"  
3 MEANS THE POINT IN TIME AT WHICH THERE IS SUFFICIENT EVIDENCE TO  
4 CONCLUDE THAT A SECURITY BREACH HAS TAKEN PLACE.

5 (c) "ENCRYPTED" MEANS RENDERED UNUSABLE, UNREADABLE, OR  
6 INDECIPHERABLE TO AN UNAUTHORIZED PERSON THROUGH A SECURITY  
7 TECHNOLOGY OR METHODOLOGY GENERALLY ACCEPTED IN THE FIELD OF  
8 INFORMATION SECURITY.

9 (d) "GOVERNMENTAL ENTITY" MEANS THE STATE AND ANY STATE  
10 AGENCY OR INSTITUTION, INCLUDING THE JUDICIAL DEPARTMENT,  
11 COUNTY, CITY AND COUNTY, INCORPORATED CITY OR TOWN, SCHOOL  
12 DISTRICT, SPECIAL IMPROVEMENT DISTRICT, AUTHORITY, AND EVERY  
13 OTHER KIND OF DISTRICT, INSTRUMENTALITY, OR POLITICAL SUBDIVISION  
14 OF THE STATE ORGANIZED PURSUANT TO LAW. "GOVERNMENTAL ENTITY"  
15 INCLUDES ENTITIES GOVERNED BY HOME RULE CHARTERS.  
16 "GOVERNMENTAL ENTITY" DOES NOT INCLUDE AN ENTITY ACTING AS A  
17 THIRD-PARTY SERVICE PROVIDER AS DEFINED IN SUBSECTION (1)(i) OF THIS  
18 SECTION.

19 (e) "MEDICAL INFORMATION" MEANS ANY INFORMATION ABOUT A  
20 CONSUMER'S MEDICAL OR MENTAL HEALTH TREATMENT OR DIAGNOSIS BY  
21 A HEALTH CARE PROFESSIONAL.

22 (f) "NOTICE" MEANS:

23 (I) WRITTEN NOTICE TO THE POSTAL ADDRESS LISTED IN THE  
24 RECORDS OF THE GOVERNMENTAL ENTITY;

25 (II) TELEPHONIC NOTICE;

26 (III) ELECTRONIC NOTICE, IF A PRIMARY MEANS OF  
27 COMMUNICATION BY THE GOVERNMENTAL ENTITY WITH A COLORADO

1 RESIDENT IS BY ELECTRONIC MEANS OR THE NOTICE PROVIDED IS  
2 CONSISTENT WITH THE PROVISIONS REGARDING ELECTRONIC RECORDS AND  
3 SIGNATURES SET FORTH IN THE FEDERAL "ELECTRONIC SIGNATURES IN  
4 GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ.;  
5 OR

6 (IV) SUBSTITUTE NOTICE, IF THE GOVERNMENTAL ENTITY  
7 REQUIRED TO PROVIDE NOTICE DEMONSTRATES THAT THE COST OF  
8 PROVIDING NOTICE WILL EXCEED TWO HUNDRED FIFTY THOUSAND  
9 DOLLARS, THE AFFECTED CLASS OF PERSONS TO BE NOTIFIED EXCEEDS TWO  
10 HUNDRED FIFTY THOUSAND COLORADO RESIDENTS, OR THE  
11 GOVERNMENTAL ENTITY DOES NOT HAVE SUFFICIENT CONTACT  
12 INFORMATION TO PROVIDE NOTICE. SUBSTITUTE NOTICE CONSISTS OF ALL  
13 OF THE FOLLOWING:

14 (A) E-MAIL NOTICE IF THE GOVERNMENTAL ENTITY HAS E-MAIL  
15 ADDRESSES FOR THE MEMBERS OF THE AFFECTED CLASS OF COLORADO  
16 RESIDENTS;

17 (B) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE PAGE  
18 OF THE GOVERNMENTAL ENTITY IF THE GOVERNMENTAL ENTITY  
19 MAINTAINS ONE; AND

20 (C) NOTIFICATION TO MAJOR STATEWIDE MEDIA.

21 (g) (I) (A) "PERSONAL INFORMATION" MEANS A COLORADO  
22 RESIDENT'S FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION  
23 WITH ANY ONE OR MORE OF THE FOLLOWING DATA ELEMENTS THAT  
24 RELATE TO THE RESIDENT, WHEN THE DATA ELEMENTS ARE NOT  
25 ENCRYPTED, REDACTED, OR SECURED BY ANY OTHER METHOD RENDERING  
26 THE NAME OR THE ELEMENT UNREADABLE OR UNUSABLE: SOCIAL  
27 SECURITY NUMBER; DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD

1 NUMBER; STUDENT, MILITARY, OR PASSPORT IDENTIFICATION NUMBER;  
2 MEDICAL INFORMATION; HEALTH INSURANCE IDENTIFICATION NUMBER; OR  
3 BIOMETRIC DATA, AS DEFINED IN SECTION 24-73-101 (1)(a);

4 (B) A COLORADO RESIDENT'S USER NAME OR E-MAIL ADDRESS, IN  
5 COMBINATION WITH A PASSWORD OR SECURITY QUESTIONS AND ANSWERS,  
6 THAT WOULD PERMIT ACCESS TO AN ONLINE ACCOUNT; OR

7 (C) A COLORADO RESIDENT'S ACCOUNT NUMBER OR CREDIT OR  
8 DEBIT CARD NUMBER IN COMBINATION WITH ANY REQUIRED SECURITY  
9 CODE, ACCESS CODE, OR PASSWORD THAT WOULD PERMIT ACCESS TO THAT  
10 ACCOUNT.

11 (II) "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY  
12 AVAILABLE INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE  
13 GENERAL PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT  
14 RECORDS OR WIDELY DISTRIBUTED MEDIA.

15 (h) "SECURITY BREACH" MEANS THE UNAUTHORIZED ACQUISITION  
16 OF UNENCRYPTED COMPUTERIZED DATA THAT COMPROMISES THE  
17 SECURITY, CONFIDENTIALITY, OR INTEGRITY OF PERSONAL INFORMATION  
18 MAINTAINED BY A GOVERNMENTAL ENTITY. GOOD FAITH ACQUISITION OF  
19 PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF A  
20 GOVERNMENTAL ENTITY FOR THE PURPOSES OF THE GOVERNMENTAL  
21 ENTITY IS NOT A SECURITY BREACH IF THE PERSONAL INFORMATION IS NOT  
22 USED FOR A PURPOSE UNRELATED TO THE LAWFUL GOVERNMENT PURPOSE  
23 OR IS NOT SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE.

24 (i) "THIRD-PARTY SERVICE PROVIDER" MEANS AN ENTITY THAT  
25 HAS BEEN CONTRACTED     TO MAINTAIN, STORE, OR PROCESS PERSONAL  
26 INFORMATION ON BEHALF OF A GOVERNMENTAL ENTITY.

27 (2) **Disclosure of breach.** (a) A GOVERNMENTAL ENTITY THAT

1 MAINTAINS, OWNS, OR LICENSES COMPUTERIZED DATA THAT INCLUDES  
2 PERSONAL INFORMATION ABOUT A RESIDENT OF COLORADO SHALL, WHEN  
3 IT BECOMES AWARE THAT A SECURITY BREACH MAY HAVE OCCURRED,  
4 CONDUCT IN GOOD FAITH A PROMPT INVESTIGATION TO DETERMINE THE  
5 LIKELIHOOD THAT PERSONAL INFORMATION HAS BEEN OR WILL BE  
6 MISUSED. THE GOVERNMENTAL ENTITY SHALL GIVE NOTICE TO THE  
7 AFFECTED COLORADO RESIDENTS UNLESS THE INVESTIGATION  
8 DETERMINES THAT THE MISUSE OF INFORMATION ABOUT A COLORADO  
9 RESIDENT HAS NOT OCCURRED AND IS NOT REASONABLY LIKELY TO  
10 OCCUR. NOTICE MUST BE MADE IN THE MOST EXPEDIENT TIME POSSIBLE  
11 AND WITHOUT UNREASONABLE DELAY, BUT NOT LATER THAN THIRTY DAYS  
12 AFTER THE DATE OF DETERMINATION THAT A SECURITY BREACH  
13 OCCURRED, CONSISTENT WITH THE LEGITIMATE NEEDS OF LAW  
14 ENFORCEMENT AND CONSISTENT WITH ANY MEASURES NECESSARY TO  
15 DETERMINE THE SCOPE OF THE BREACH AND TO RESTORE THE REASONABLE  
16 INTEGRITY OF THE COMPUTERIZED DATA SYSTEM.

17 (b) IN THE CASE OF A BREACH OF PERSONAL INFORMATION, NOTICE  
18 REQUIRED BY THIS SUBSECTION (2) TO AFFECTED COLORADO RESIDENTS  
19 MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING  
20 INFORMATION:

21 (I) THE DATE, ESTIMATED DATE, OR ESTIMATED DATE RANGE OF  
22 THE SECURITY BREACH;

23 (II) A DESCRIPTION OF THE PERSONAL INFORMATION THAT WAS  
24 ACQUIRED OR REASONABLY BELIEVED TO HAVE BEEN ACQUIRED AS PART  
25 OF THE SECURITY BREACH;

26 (III) INFORMATION THAT THE RESIDENT CAN USE TO CONTACT THE  
27 GOVERNMENTAL ENTITY      TO INQUIRE ABOUT THE SECURITY BREACH;

1 (IV) THE TOLL-FREE NUMBERS, ADDRESSES, AND WEBSITES FOR  
2 CONSUMER REPORTING AGENCIES;

3 (V) THE TOLL-FREE NUMBER, ADDRESS, AND WEBSITE FOR THE  
4 FEDERAL TRADE COMMISSION; AND

5 (VI) A STATEMENT THAT THE RESIDENT CAN OBTAIN INFORMATION  
6 FROM THE FEDERAL TRADE COMMISSION AND THE CREDIT REPORTING  
7 AGENCIES ABOUT FRAUD ALERTS AND SECURITY FREEZES.

8 (c) IF AN INVESTIGATION BY THE GOVERNMENTAL ENTITY  
9 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION DETERMINES THAT THE  
10 TYPE OF PERSONAL INFORMATION DESCRIBED IN SUBSECTION (1)(g)(I)(B)  
11 OF THIS SECTION HAS BEEN MISUSED OR IS REASONABLY LIKELY TO BE  
12 MISUSED, THEN THE GOVERNMENTAL ENTITY SHALL, IN ADDITION TO THE  
13 NOTICE OTHERWISE REQUIRED BY SUBSECTION (2)(b) OF THIS SECTION AND  
14 IN THE MOST EXPEDIENT TIME POSSIBLE AND WITHOUT UNREASONABLE  
15 DELAY, BUT NOT LATER THAN THIRTY DAYS AFTER THE DATE OF  
16 DETERMINATION THAT A SECURITY BREACH OCCURRED, CONSISTENT WITH  
17 THE LEGITIMATE NEEDS OF LAW ENFORCEMENT AND CONSISTENT WITH  
18 ANY MEASURES NECESSARY TO DETERMINE THE SCOPE OF THE BREACH  
19 AND TO RESTORE THE REASONABLE INTEGRITY OF THE COMPUTERIZED  
20 DATA SYSTEM:

21 (I) DIRECT THE PERSON WHOSE PERSONAL INFORMATION HAS BEEN  
22 BREACHED TO PROMPTLY CHANGE HIS OR HER PASSWORD AND SECURITY  
23 QUESTION OR ANSWER, AS APPLICABLE, OR TO TAKE OTHER STEPS  
24 APPROPRIATE TO PROTECT THE ONLINE ACCOUNT WITH THE PERSON OR  
25 BUSINESS AND ALL OTHER ONLINE ACCOUNTS FOR WHICH THE PERSON  
26 WHOSE PERSONAL INFORMATION HAS BEEN BREACHED      USES THE SAME  
27 USERNAME OR E-MAIL ADDRESS AND PASSWORD OR SECURITY QUESTION

1 OR ANSWER.

2 (II) FOR LOG-IN CREDENTIALS OF AN E-MAIL ACCOUNT FURNISHED  
3 BY THE GOVERNMENTAL ENTITY, THE GOVERNMENTAL ENTITY SHALL NOT  
4 COMPLY WITH THIS SECTION BY PROVIDING THE SECURITY BREACH  
5 NOTIFICATION TO THAT E-MAIL ADDRESS, BUT MAY INSTEAD COMPLY WITH  
6 THIS SECTION BY PROVIDING NOTICE THROUGH OTHER METHODS, AS  
7 DEFINED IN SUBSECTION (1)(f) OF THIS SECTION, OR BY CLEAR AND  
8 CONSPICUOUS NOTICE DELIVERED TO THE RESIDENT ONLINE WHEN THE  
9 RESIDENT IS CONNECTED TO THE ONLINE ACCOUNT FROM AN INTERNET  
10 PROTOCOL ADDRESS OR ONLINE LOCATION FROM WHICH THE  
11 GOVERNMENTAL ENTITY KNOWS THE RESIDENT CUSTOMARILY ACCESSES  
12 THE ACCOUNT.

13 (d) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED  
14 PERSONAL INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS  
15 SECTION IF THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER  
16 MEANS TO DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED IN  
17 THE SECURITY BREACH OR WAS REASONABLY BELIEVED TO HAVE BEEN  
18 ACQUIRED.

19 (e) A GOVERNMENTAL ENTITY THAT IS REQUIRED TO PROVIDE  
20 NOTICE PURSUANT TO THIS SUBSECTION (2) IS PROHIBITED FROM CHARGING  
21 THE COST OF PROVIDING SUCH NOTICE TO INDIVIDUALS.

22 (f) NOTHING IN THIS SUBSECTION (2) PROHIBITS THE NOTICE  
23 DESCRIBED IN THIS SUBSECTION (2) FROM CONTAINING ADDITIONAL  
24 INFORMATION, INCLUDING ANY INFORMATION THAT MAY BE REQUIRED BY  
25 STATE OR FEDERAL LAW.

26 (g) IF A GOVERNMENTAL ENTITY USES A THIRD-PARTY SERVICE  
27 PROVIDER TO MAINTAIN COMPUTERIZED DATA THAT INCLUDES PERSONAL



1 INFORMATION, THEN THE THIRD-PARTY SERVICE PROVIDER SHALL GIVE  
2 NOTICE TO AND COOPERATE WITH THE GOVERNMENTAL ENTITY IN THE  
3 EVENT OF A SECURITY BREACH THAT COMPROMISES SUCH COMPUTERIZED  
4 DATA, INCLUDING NOTIFYING THE GOVERNMENTAL ENTITY OF ANY  
5 SECURITY BREACH IN THE MOST EXPEDIENT TIME AND WITHOUT  
6 UNREASONABLE DELAY FOLLOWING DISCOVERY OF A SECURITY BREACH,  
7 IF MISUSE OF PERSONAL INFORMATION ABOUT A COLORADO RESIDENT  
8 OCCURRED OR IS LIKELY TO OCCUR. COOPERATION INCLUDES SHARING  
9 WITH THE COVERED ENTITY INFORMATION RELEVANT TO THE SECURITY  
10 BREACH; EXCEPT THAT SUCH COOPERATION DOES NOT REQUIRE THE  
11 DISCLOSURE OF CONFIDENTIAL BUSINESS INFORMATION OR TRADE  
12 SECRETS.

13 (h) NOTICE REQUIRED BY THIS SECTION MAY BE DELAYED IF A LAW  
14 ENFORCEMENT AGENCY DETERMINES THAT THE NOTICE WILL IMPEDE A  
15 CRIMINAL INVESTIGATION AND THE LAW ENFORCEMENT AGENCY HAS  
16 NOTIFIED THE GOVERNMENTAL ENTITY THAT OPERATES IN COLORADO NOT  
17 TO SEND NOTICE REQUIRED BY THIS SECTION. NOTICE REQUIRED BY THIS  
18 SECTION MUST BE MADE IN GOOD FAITH, IN THE MOST EXPEDIENT TIME  
19 POSSIBLE AND WITHOUT UNREASONABLE DELAY, BUT NOT LATER THAN  
20 THIRTY DAYS AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT  
21 NOTIFICATION WILL NO LONGER IMPEDE THE INVESTIGATION, AND HAS  
22 NOTIFIED THE GOVERNMENTAL ENTITY THAT IT IS APPROPRIATE TO SEND  
23 THE NOTICE REQUIRED BY THIS SECTION.

24 (i) IF A GOVERNMENTAL ENTITY IS REQUIRED TO NOTIFY MORE  
25 THAN ONE THOUSAND COLORADO RESIDENTS OF A SECURITY BREACH  
26 PURSUANT TO THIS SECTION, THE GOVERNMENTAL ENTITY SHALL ALSO  
27 NOTIFY, IN THE MOST EXPEDIENT TIME POSSIBLE AND WITHOUT

1 UNREASONABLE DELAY, ALL CONSUMER REPORTING AGENCIES THAT  
2 COMPILE AND MAINTAIN FILES ON CONSUMERS ON A NATIONWIDE BASIS,  
3 AS DEFINED BY THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C.  
4 SEC. 1681a (p), OF THE ANTICIPATED DATE OF THE NOTIFICATION TO THE  
5 RESIDENTS AND THE APPROXIMATE NUMBER OF RESIDENTS WHO ARE TO BE  
6 NOTIFIED. NOTHING IN THIS SUBSECTION (2)(i) REQUIRES THE  
7 GOVERNMENTAL ENTITY TO PROVIDE TO THE CONSUMER REPORTING  
8 AGENCY THE NAMES OR OTHER PERSONAL INFORMATION OF SECURITY  
9 BREACH NOTICE RECIPIENTS. THIS SUBSECTION (2)(i) DOES NOT APPLY TO  
10 A PERSON WHO IS SUBJECT TO TITLE V OF THE FEDERAL  
11 "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET SEQ.

12 (j) A WAIVER OF THESE NOTIFICATION RIGHTS OR RESPONSIBILITIES  
13 IS VOID AS AGAINST PUBLIC POLICY.

14 (k) (I) THE GOVERNMENTAL ENTITY THAT MUST NOTIFY  
15 COLORADO RESIDENTS OF A DATA BREACH PURSUANT TO THIS SECTION  
16 SHALL PROVIDE NOTICE OF ANY SECURITY BREACH TO THE COLORADO  
17 ATTORNEY GENERAL IN THE MOST EXPEDIENT TIME POSSIBLE AND  
18 WITHOUT UNREASONABLE DELAY, BUT NOT LATER THAN THIRTY DAYS  
19 AFTER THE DATE OF DETERMINATION THAT A SECURITY BREACH  
20 OCCURRED, IF THE SECURITY BREACH IS REASONABLY BELIEVED TO HAVE  
21 AFFECTED FIVE HUNDRED COLORADO RESIDENTS OR MORE, UNLESS THE  
22 INVESTIGATION DETERMINES THAT THE MISUSE OF INFORMATION ABOUT  
23 A COLORADO RESIDENT HAS NOT OCCURRED AND IS NOT LIKELY TO OCCUR.

24 (II) THE COLORADO ATTORNEY GENERAL SHALL DESIGNATE A  
25 PERSON OR PERSONS AS A POINT OF CONTACT FOR FUNCTIONS SET FORTH  
26 IN THIS SUBSECTION (2)(k) AND SHALL MAKE THE CONTACT INFORMATION  
27 FOR THAT PERSON OR THOSE PERSONS PUBLIC ON THE ATTORNEY

1 GENERAL'S WEBSITE AND BY ANY OTHER APPROPRIATE MEANS.

2 (1) THE BREACH OF ENCRYPTED OR OTHERWISE SECURED PERSONAL  
3 INFORMATION MUST BE DISCLOSED IN ACCORDANCE WITH THIS SECTION IF  
4 THE CONFIDENTIAL PROCESS, ENCRYPTION KEY, OR OTHER MEANS TO  
5 DECIPHER THE SECURED INFORMATION WAS ALSO ACQUIRED OR WAS  
6 REASONABLY BELIEVED TO HAVE BEEN ACQUIRED IN THE SECURITY  
7 BREACH.

8 **(3) Procedures deemed in compliance with notice**  
9 **requirements.** (a) PURSUANT TO THIS SECTION, A GOVERNMENTAL  
10 ENTITY THAT MAINTAINS ITS OWN NOTIFICATION PROCEDURES AS PART OF  
11 AN INFORMATION SECURITY POLICY FOR THE TREATMENT OF PERSONAL  
12 INFORMATION AND WHOSE PROCEDURES ARE OTHERWISE CONSISTENT  
13 WITH THE TIMING REQUIREMENTS OF THIS SECTION IS IN COMPLIANCE WITH  
14 THE NOTICE REQUIREMENTS OF THIS SECTION IF THE GOVERNMENTAL  
15 ENTITY NOTIFIES AFFECTED COLORADO RESIDENTS IN ACCORDANCE WITH  
16 ITS POLICIES IN THE EVENT OF A SECURITY BREACH; EXCEPT THAT NOTICE  
17 TO THE ATTORNEY GENERAL IS STILL REQUIRED PURSUANT TO SUBSECTION  
18 (2)(k) OF THIS SECTION.

19 (b) A GOVERNMENTAL ENTITY THAT IS REGULATED BY STATE OR  
20 FEDERAL LAW AND THAT MAINTAINS PROCEDURES FOR A SECURITY  
21 BREACH PURSUANT TO THE LAWS, RULES, REGULATIONS, GUIDANCES, OR  
22 GUIDELINES ESTABLISHED BY ITS STATE OR FEDERAL REGULATOR IS IN  
23 COMPLIANCE WITH THIS SECTION; EXCEPT THAT NOTICE TO THE ATTORNEY  
24 GENERAL IS STILL REQUIRED PURSUANT TO SUBSECTION (2)(k) OF THIS  
25 SECTION. IN THE CASE OF A CONFLICT BETWEEN THE TIME PERIOD FOR  
26 NOTICE TO INDIVIDUALS, THE LAW OR REGULATION WITH THE SHORTEST  
27 NOTICE PERIOD CONTROLS.

1           **(4) Violations.** THE ATTORNEY GENERAL MAY BRING AN ACTION  
2 FOR INJUNCTIVE RELIEF TO ENFORCE THE PROVISIONS OF THIS SECTION.

3           **(5) Attorney general criminal authority.** UPON RECEIPT OF  
4 NOTICE PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND WITH EITHER  
5 A REQUEST FROM THE GOVERNOR TO PROSECUTE A PARTICULAR CASE OR  
6 WITH THE APPROVAL OF THE DISTRICT ATTORNEY WITH JURISDICTION TO  
7 PROSECUTE CASES IN THE JUDICIAL DISTRICT WHERE A CASE \_\_\_ COULD BE  
8 BROUGHT, THE ATTORNEY GENERAL HAS THE AUTHORITY TO PROSECUTE  
9 ANY CRIMINAL VIOLATIONS OF SECTION 18-5.5-102.

10           **SECTION 5. Effective date.** This act takes effect September 1,  
11 2018.

12           **SECTION 6. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.