

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-1026.02 Jed Franklin x5484

HOUSE BILL 23-1306

HOUSE SPONSORSHIP

Herod and Soper,

SENATE SPONSORSHIP

(None),

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF SOCIAL MEDIA ADMINISTERED BY AN**
102 **ELECTED OFFICIAL THAT IS NOT SUPPORTED BY GOVERNMENT**
103 **RESOURCES, AND, IN CONNECTION THEREWITH, ALLOWING AN**
104 **ELECTED OFFICIAL TO RESTRICT OR BAR AN INDIVIDUAL FROM**
105 **USING THE SOCIAL MEDIA ADMINISTERED BY THE ELECTED**
106 **OFFICIAL FOR ANY REASON INCLUDING ATTEMPTING TO CHILL**
107 **THE SPEECH OF ANOTHER INDIVIDUAL.**

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>.)

The bill allows an elected official in the state to restrict or bar an individual from using private social media that is being administered by

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.

the elected official for any reason, including bullying, harassment, or intimidation, in the elected official's discretion.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 18.3 to
3 title 24 as follows:

4 **ARTICLE 18.3**

5 **Social Media Civility**

6 **24-18.3-101. Bullying, harassment, and intimidation - state**
7 **elected official - social media - legislative declaration - definitions.**

8 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PRIVATE
9 SOCIAL MEDIA ADMINISTERED BY A STATE ELECTED OFFICIAL OR DESIGNEE
10 IS A PRIVATE ACCOUNT AND DOES NOT CREATE A PUBLIC FORUM;

11 (b) A STATE ELECTED OFFICIAL HAS NO DUTY TO CREATE OR
12 MAINTAIN PRIVATE SOCIAL MEDIA AND NO STATE LAW, ORDINANCE, OR
13 REGULATION COMPELS CREATION OR MAINTENANCE OF PRIVATE SOCIAL
14 MEDIA BY A STATE ELECTED OFFICIAL; AND

15 (c) THEREFORE, THE GENERAL ASSEMBLY DETERMINES THAT IT IS
16 APPROPRIATE TO ACKNOWLEDGE IN LAW THAT A STATE ELECTED OFFICIAL
17 OR DESIGNEE HAS DISCRETION TO RESTRICT OR REMOVE A USER OF
18 PRIVATE SOCIAL MEDIA THAT IS ADMINISTERED BY THE STATE ELECTED
19 OFFICIAL OR DESIGNEE FOR ANY REASON, INCLUDING BULLYING,
20 HARASSMENT OR INTIMIDATION OF OTHER USERS OF THE PRIVATE SOCIAL
21 MEDIA ADMINISTERED BY THE STATE ELECTED OFFICIAL OR DESIGNEE.

22 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) "BULLYING" MEANS INTENDING TO COERCE OR CAUSE ANY
25 PHYSICAL, MENTAL, OR EMOTIONAL HARM TO ANY INDIVIDUAL BY

1 WRITTEN EXPRESSION, AN ELECTRONIC ACT OR GESTURE, OR A PATTERN OF
2 BEHAVIOR.

3 (b) "HARASSMENT" MEANS:

4 (I) DIRECTLY OR INDIRECTLY INITIATING COMMUNICATION WITH
5 AN INDIVIDUAL OR DIRECTING LANGUAGE TOWARD ANOTHER INDIVIDUAL,
6 ANONYMOUSLY OR OTHERWISE, BY DATA NETWORK, INSTANT MESSAGE,
7 COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR ANY OTHER
8 INTERACTIVE ELECTRONIC MEDIUM IN A MANNER INTENDED TO ALARM OR
9 CAUSE SUBSTANTIAL EMOTIONAL DISTRESS OR THREATEN BODILY INJURY
10 OR PROPERTY DAMAGE; OR

11 (II) MAKING ANY OBSCENE COMMENT, SUGGESTION, REQUEST, OR
12 PROPOSAL BY COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR
13 ANY OTHER ELECTRONIC MEDIUM.

14 (c) "INTIMIDATION" MEANS DIRECTLY OR INDIRECTLY INFLECTING
15 OR THREATENING THE INFLECTION OF ANY INJURY, DAMAGE, HARM, OR
16 LOSS UPON AN INDIVIDUAL.

17 (d) "OBSCENE" MEANS A PATENTLY OFFENSIVE DESCRIPTION OF
18 SEXUAL ACTS OR SOLICITATION TO COMMIT SEXUAL ACTS.

19 (e) "PRIVATE SOCIAL MEDIA" MEANS SOCIAL MEDIA THAT IS NOT
20 SUPPORTED BY THE RESOURCES OF THE STATE GOVERNMENT AND IS NOT
21 REQUIRED BY STATE LAW, ORDINANCE, OR REGULATION TO BE CREATED OR
22 MAINTAINED BY A STATE ELECTED OFFICIAL.

23 (f) "SOCIAL MEDIA" MEANS ANY ELECTRONIC MEDIUM, INCLUDING
24 AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK, OR DATA
25 NETWORK THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
26 USER-GENERATED CONTENT INCLUDING VIDEOS, STILL PHOTOGRAPHS,
27 BLOGS, VIDEO BLOGS, PODCASTS, INSTANT MESSAGES, ELECTRONIC MAIL,

1 OR INTERNET WEBSITE PROFILES.

2 (g) "STATE ELECTED OFFICIAL" MEANS AN INDIVIDUAL SERVING IN
3 AN ELECTED POSITION IN THE STATE GOVERNMENT.

4 (3) A STATE ELECTED OFFICIAL MAY PERMANENTLY OR
5 TEMPORARILY RESTRICT OR BAR AN INDIVIDUAL FROM USING THE PRIVATE
6 SOCIAL MEDIA THAT IS ADMINISTERED BY A STATE ELECTED OFFICIAL OR
7 THEIR DESIGNEE FOR ANY REASON, INCLUDING BULLYING, HARASSMENT,
8 OR INTIMIDATION, IN THE STATE ELECTED OFFICIAL'S SOLE DISCRETION.

9 (4) THIS SECTION IS NOT INTENDED TO INFRINGE UPON ANY RIGHT
10 GUARANTEED TO ANY INDIVIDUAL BY THE FIRST AMENDMENT TO THE
11 UNITED STATES CONSTITUTION OR SECTION 10 OF ARTICLE II OF THE
12 COLORADO CONSTITUTION OR TO PREVENT THE EXPRESSION OF ANY
13 RELIGIOUS, POLITICAL, OR PHILOSOPHICAL VIEWS.

14 **SECTION 2.** In Colorado Revised Statutes, **add** article 33 to title
15 29 as follows:

16 **ARTICLE 33**

17 **Social Media Civility**

18 **29-33-101. Bullying, harassment, and intimidation - local**
19 **elected official - social media - legislative declaration - definitions.**

20 (1)(a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PRIVATE
21 SOCIAL MEDIA ADMINISTERED BY A LOCAL ELECTED OFFICIAL OR DESIGNEE
22 IS A PRIVATE ACCOUNT AND DOES NOT CREATE A PUBLIC FORUM;

23 (b) A LOCAL ELECTED OFFICIAL HAS NO DUTY TO CREATE OR
24 MAINTAIN PRIVATE SOCIAL MEDIA AND NO STATE LAW, ORDINANCE, OR
25 REGULATION COMPELS CREATION OR MAINTENANCE OF PRIVATE SOCIAL
26 MEDIA BY A LOCAL ELECTED OFFICIAL; AND

27 (c) THEREFORE, THE GENERAL ASSEMBLY DETERMINES THAT IT IS

1 APPROPRIATE TO ACKNOWLEDGE IN LAW THAT A LOCAL ELECTED OFFICIAL
2 OR DESIGNEE HAS DISCRETION TO RESTRICT OR REMOVE A USER OF
3 PRIVATE SOCIAL MEDIA THAT IS ADMINISTERED BY THE LOCAL ELECTED
4 OFFICIAL OR DESIGNEE FOR ANY REASON, INCLUDING BULLYING,
5 HARASSMENT, OR INTIMIDATION OF OTHER USERS OF THE PRIVATE SOCIAL
6 MEDIA ADMINISTERED BY THE LOCAL ELECTED OFFICIAL OR DESIGNEE.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "BULLYING" MEANS INTENDING TO COERCE OR CAUSE ANY
10 PHYSICAL, MENTAL, OR EMOTIONAL HARM TO ANY INDIVIDUAL BY
11 WRITTEN EXPRESSION, AN ELECTRONIC ACT OR GESTURE, OR A PATTERN OF
12 BEHAVIOR.

13 (b) "HARASSMENT" MEANS:

14 (I) DIRECTLY OR INDIRECTLY INITIATING COMMUNICATION WITH
15 AN INDIVIDUAL OR DIRECTING LANGUAGE TOWARD ANOTHER INDIVIDUAL,
16 ANONYMOUSLY OR OTHERWISE, BY DATA NETWORK, INSTANT MESSAGE,
17 COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR ANY OTHER
18 INTERACTIVE ELECTRONIC MEDIUM IN A MANNER INTENDED TO ALARM OR
19 CAUSE SUBSTANTIAL EMOTIONAL DISTRESS OR THREATEN BODILY INJURY
20 OR PROPERTY DAMAGE; OR

21 (II) MAKING ANY OBSCENE COMMENT, SUGGESTION, REQUEST, OR
22 PROPOSAL BY COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR
23 ANY OTHER ELECTRONIC MEDIUM.

24 (c) "INTIMIDATION" MEANS DIRECTLY OR INDIRECTLY INFLICTING
25 OR THREATENING THE INFLECTION OF ANY INJURY, DAMAGE, HARM, OR
26 LOSS UPON AN INDIVIDUAL.

27 (d) "LOCAL ELECTED OFFICIAL" MEANS AN INDIVIDUAL SERVING IN

1 AN ELECTED POSITION IN THE STATE WHO IS NOT A STATE ELECTED
2 OFFICIAL, AS DEFINED IN SECTION 24-18.3-101 (2)(g).

3 (e) "OBSCENE" MEANS A PATENTLY OFFENSIVE DESCRIPTION OF
4 SEXUAL ACTS OR SOLICITATION TO COMMIT SEXUAL ACTS.

5 (f) "PRIVATE SOCIAL MEDIA" MEANS SOCIAL MEDIA THAT IS NOT
6 SUPPORTED BY THE RESOURCES OF A LOCAL GOVERNMENT AND IS NOT
7 REQUIRED BY STATE OR LOCAL LAW, ORDINANCE, OR REGULATION TO BE
8 CREATED OR MAINTAINED BY A LOCAL ELECTED OFFICIAL.

9 (g) "SOCIAL MEDIA" MEANS ANY ELECTRONIC MEDIUM, INCLUDING
10 AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK, OR DATA
11 NETWORK THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
12 USER-GENERATED CONTENT INCLUDING VIDEOS, STILL PHOTOGRAPHS,
13 BLOGS, VIDEO BLOGS, PODCASTS, INSTANT MESSAGES, ELECTRONIC MAIL,
14 OR INTERNET WEBSITE PROFILES.

15 (3) A LOCAL ELECTED OFFICIAL MAY PERMANENTLY OR
16 TEMPORARILY RESTRICT OR BAR AN INDIVIDUAL FROM USING THE PRIVATE
17 SOCIAL MEDIA THAT IS ADMINISTERED BY THE LOCAL ELECTED OFFICIAL
18 OR THEIR DESIGNEE FOR ANY REASON, INCLUDING BULLYING,
19 HARASSMENT, OR INTIMIDATION, IN THE LOCAL ELECTED OFFICIAL'S SOLE
20 DISCRETION.

21 (4) THIS SECTION IS NOT INTENDED TO INFRINGE UPON ANY RIGHT
22 GUARANTEED TO ANY INDIVIDUAL BY THE FIRST AMENDMENT TO THE
23 UNITED STATES CONSTITUTION OR SECTION 10 OF ARTICLE II OF THE
24 COLORADO CONSTITUTION OR TO PREVENT THE EXPRESSION OF ANY
25 RELIGIOUS, POLITICAL, OR PHILOSOPHICAL VIEWS.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.