Second Regular Session Seventy-fourth General Assembly STATE OF COLORADO

PREAMENDED

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

LLS NO. 24-0667.03 Christy Chase x2008

SENATE BILL 24-041

SENATE SPONSORSHIP

Rodriguez and Lundeen,

HOUSE SPONSORSHIP

(None),

Senate CommitteesBusiness, Labor, & Technology

101

102

House Committees

A BILL FOR AN ACT

CONCERNING ADDING DATA PROTECTIONS FOR A MINOR'S ONLINE ACTIVITY.

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 amends the "Colorado Privacy Act" to add enhanced protections when a minor's data is processed and there is a heightened risk of harm to the minor. The bill applies to any entity that controls consumer personal data (controller) and that conducts business in Colorado or delivers products or services that are targeted at Colorado residents, regardless of the volume of or amount of revenue derived from that

activity.

A controller that offers an online service, product, or feature to a consumer that the controller knows or willfully disregards is a minor is required to:

- Use reasonable care to avoid any heightened risk of harm to minors caused by the service, product, or feature; and
- Conduct, and review as necessary, a data protection assessment for the service, product, or feature and maintain documentation regarding the assessment for a specified period.

Unless the minor or, for a minor who is under 13 years of age, the minor's parent or legal guardian has consented, a controller is prohibited from processing a minor's personal data:

- For targeted advertising, selling the minor's personal data, or profiling the minor's personal data;
- For any processing purpose other than the purpose disclosed at the time the minor's personal data is collected or a purpose reasonably necessary for the disclosed processing purpose; or
- For longer than reasonably necessary to provide the service, product, or feature.

A controller is also prohibited from:

- Using a system design feature to significantly increase, sustain, or extend a minor's use of the service, product, or feature; or
- Collecting a minor's precise geolocation, except under specified circumstances.

The attorney general and district attorneys are authorized to enforce the requirements of the bill in the same manner as authorized under the "Colorado Privacy Act", including notifying a controller of, and allowing a controller time to cure, a violation.

- 1 Be it enacted by the General Assembly of the State of Colorado:
- 2 SECTION 1. In Colorado Revised Statutes, 6-1-1302, amend
- 3 (1)(a)(III), (1)(a)(V), (1)(b)(II), and (1)(c)(I); and add (1)(c)(II)(A.5) as
- 4 follows:
- 5 **6-1-1302.** Legislative declaration. (1) The general assembly
- 6 hereby:
- 7 (a) Finds that:

-2- 041

1	(III) Ongoing advances in technology have produced exponential
2	growth in the volume and variety of personal data FROM INDIVIDUALS.
3	INCLUDING MINORS, being generated, collected, stored, and analyzed and
4	these advances present both promise and potential peril;
5	(V) The unauthorized disclosure of personal information
6	INCLUDING A MINOR'S PERSONAL INFORMATION, and loss of privacy car
7	have devastating impacts ranging from financial fraud, identity theft, and
8	unnecessary costs in personal time and finances to destruction of
9	property, harassment, reputational damage, emotional distress, and
10	physical harm;
11	(b) Determines that:
12	(II) States across the United States are looking to this part 13 and
13	similar models to enact state-based data privacy requirements, INCLUDING
14	DATA PRIVACY REQUIREMENTS SPECIFICALLY TARGETED AT MINORS
15	DATA, and to exercise the leadership that is lacking at the national level
16	and
17	(c) Declares that:
18	(I) By enacting this part 13, Colorado will be among the states that
19	empower consumers, INCLUDING MINORS, to protect their privacy and
20	require companies to be responsible custodians of data as they continue
21	to innovate;
22	(II) This part 13 addresses issues of statewide concern and:
23	(A.5) Provides minors the right to control their personal
24	DATA;
25	SECTION 2. In Colorado Revised Statutes, 6-1-1303, amend (1)
26	and (25); and add (1.5), (14.5), (16.5), (16.7), and (17.5) as follows:
27	6-1-1303. Definitions. As used in this part 13, unless the context

-3- 041

1	otherwise requires:
2	(1) "Affiliate" means a legal entity that controls, is controlled by,
3	or is under common control with another legal entity. As used in this
4	subsection (1), "control" means:
5	(a) Ownership of, control of, or power to vote twenty-five percent
6	or more of the outstanding shares of any class of voting security of the
7	entity, directly or indirectly, or acting through one or more other persons;
8	(b) Control in any manner over the election of a majority of the
9	directors, trustees, or general partners of the entity or of individuals
10	exercising similar functions; or
11	(c) The power to exercise, directly or indirectly, a controlling
12	influence over the management or policies of the entity as determined by
13	the applicable prudential regulator, as that term is defined in 12 U.S.C.
14	sec. 5481 (24), if any "Adult" means an individual who is eighteen
15	YEARS OF AGE OR OLDER.
16	(1.5) (a) "Affiliate" means a legal entity that controls, is
17	CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER LEGAL
18	ENTITY.
19	(b) As used in subsection (1.5)(a) of this section, "control"
20	MEANS:
21	(I) OWNERSHIP OF, CONTROL OF, OR POWER TO VOTE TWENTY-FIVE
22	PERCENT OR MORE OF THE OUTSTANDING SHARES OF ANY CLASS OF
23	VOTING SECURITY OF THE ENTITY, DIRECTLY OR INDIRECTLY, OR ACTING
24	THROUGH ONE OR MORE OTHER PERSONS;
25	(II) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY
26	OF THE DIRECTORS, TRUSTEES, OR GENERAL PARTNERS OF THE ENTITY OR
27	OF INDIVIDUALS EXERCISING SIMILAR FUNCTIONS; OR

-4- 041

1	(III) THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A
2	CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF THE
3	ENTITY AS DETERMINED BY THE APPLICABLE PRUDENTIAL REGULATOR, AS
4	THAT TERM IS DEFINED IN 12 U.S.C. SEC. 5481 (24), IF ANY.
5	(14.5) "Heightened risk of harm to a minor" means
6	PROCESSING THE PERSONAL DATA OF A MINOR IN A MANNER THAT
7	PRESENTS ANY REASONABLY FORESEEABLE RISK OF:
8	(a) ANY UNFAIR OR DECEPTIVE TREATMENT OF, OR ANY UNLAWFUL
9	DISPARATE IMPACT ON, A MINOR;
10	(b) ANY FINANCIAL, PHYSICAL, OR REPUTATIONAL INJURY TO
11	A MINOR;
12	(c) ANY UNINTENDED DISCLOSURE OF THE PERSONAL <u>DATA</u> OF A
13	MINOR; OR
14	(d) Any physical or other intrusion upon the solitude or
15	SECLUSION, OR THE PRIVATE AFFAIRS OR CONCERNS, OF A MINOR IF THE
16	INTRUSION WOULD BE OFFENSIVE TO A REASONABLE PERSON.
17	(16.5) "MINOR" MEANS ANY CONSUMER WHO IS UNDER EIGHTEEN
18	YEARS OF AGE.
19	(16.7) "Online service, product, or feature":
20	(a) Means any service, product, or feature that is
21	PROVIDED ONLINE; AND
22	(b) Does not include:
23	(I) TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47 U.S.C. SEC.
24	153 (53), AS AMENDED;
25	(II) Broadband internet access service, as defined in 47
26	CFR 54.400 (1), AS AMENDED; OR
27	(III) THE DELIVERY OR USE OF A PHYSICAL PRODUCT.

-5- 041

1	(17.5) PRECISE GEOLOCATION DATA":
2	(a) MEANS INFORMATION DERIVED FROM TECHNOLOGY, INCLUDING
3	GLOBAL POSITIONING SYSTEM LEVEL LATITUDE AND LONGITUDE
4	COORDINATES OR OTHER MECHANISMS, THAT DIRECTLY IDENTIFIES THE
5	SPECIFIC LOCATION OF AN INDIVIDUAL WITH PRECISION AND ACCURACY
6	WITHIN A RADIUS OF ONE THOUSAND SEVEN HUNDRED FIFTY FEET; AND
7	(b) Does not include:
8	(I) THE CONTENT OF COMMUNICATIONS REGARDING LOCATION; OR
9	(II) ANY DATA GENERATED BY OR CONNECTED TO ADVANCED
10	<u>UTILITY</u> METERING INFRASTRUCTURE SYSTEMS OR EQUIPMENT FOR USE BY
11	A UTILITY.
12	(25) (a) "Targeted advertising":
13	$\frac{a}{a}$ (I) Means, EXCEPT AS PROVIDED IN SUBSECTION (25)(a)(II) OF
14	THIS SECTION, displaying to a consumer an advertisement that is selected
15	based on personal data obtained or inferred over time from the consumer's
16	activities across nonaffiliated websites, applications, or online services to
17	predict consumer preferences or interests; and
18	(II) Means, as used in section 6-1-1308.5, displaying to a
19	MINOR AN ADVERTISEMENT THAT IS SELECTED BASED ON PERSONAL DATA
20	OBTAINED OR INFERRED FROM THE MINOR'S ACTIVITIES OR FROM THE
21	ACTIVITIES OF OTHER MINORS ACROSS AFFILIATED AND NONAFFILIATED
22	WEBSITES, APPLICATIONS, OR ONLINE SERVICES TO PREDICT MINOR
23	PREFERENCES OR INTERESTS.
24	(b) "TARGETED ADVERTISING" does not include:
25	(I) Advertising to a consumer in response to the consumer's
26	request for information or feedback;
27	(II) Advertisements based on activities within a controller's own

-6- 041

1	websites or online applications;
2	(III) Advertisements based on the context of a consumer's current
3	search query, visit to a website, or online application; or
4	(IV) Processing personal data solely for measuring or reporting
5	advertising performance, reach, or frequency.
6	SECTION 3. In Colorado Revised Statutes, 6-1-1304, amend (1).
7	(3)(d), and (3)(e); and add (3)(f) as follows:
8	6-1-1304. Applicability of part. (1) Except as specified in
9	subsection (2) of this section:
10	(a) This part 13, OTHER THAN SECTIONS 6-1-1305.5, 6-1-1308.5,
11	AND 6-1-1309.5, applies to a controller that:
12	(a) (I) Conducts business in Colorado or produces or delivers
13	commercial products or services that are intentionally targeted to
14	residents of Colorado; and
15	(b) (II) Satisfies one or both of the following thresholds:
16	(I) (A) Controls or processes the personal data of one hundred
17	thousand consumers or more during a calendar year; or
18	(H) (B) Derives revenue or receives a discount on the price of
19	goods or services from the sale of personal data and processes or controls
20	the personal data of twenty-five thousand consumers or more; AND
21	(b) SECTIONS 6-1-1305.5, 6-1-1308.5, AND 6-1-1309.5 TO
22	6-1-1313 APPLY TO A CONTROLLER THAT CONDUCTS BUSINESS IN
23	COLORADO OR DELIVERS COMMERCIAL PRODUCTS OR SERVICES THAT ARE
24	INTENTIONALLY TARGETED TO RESIDENTS OF COLORADO.
25	(3) The obligations imposed on controllers or processors under
26	this part 13 do not:
27	(d) Apply to information made available by a third party that the

-7- 041

1	controller has a reasonable basis to believe is protected speech pursuant
2	to applicable law; and
3	(e) Apply to the processing of personal data by an individual in
4	the course of a purely personal or household activity; AND
5	(f) REQUIRE A CONTROLLER OR PROCESSOR TO IMPLEMENT AN AGE
6	VERIFICATION OR AGE-GATING SYSTEM OR OTHERWISE AFFIRMATIVELY
7	COLLECT THE AGE OF CONSUMERS.
8	SECTION 4. In Colorado Revised Statutes, add 6-1-1305.5,
9	6-1-1308.5, and 6-1-1309.5 as follows:
10	6-1-1305.5. Responsibility according to role - processing data
11	of minors. (1) A PROCESSOR SHALL ADHERE TO THE INSTRUCTIONS OF A
12	CONTROLLER AND SHALL ASSIST THE CONTROLLER TO MEET THE
13	CONTROLLER'S OBLIGATIONS UNDER SECTIONS 6-1-1308.5 AND
14	6-1-1309.5, TAKING INTO ACCOUNT THE NATURE OF THE PROCESSING AND
15	THE INFORMATION AVAILABLE TO THE PROCESSOR. THE PROCESSOR SHALL
16	ASSIST THE CONTROLLER BY:
17	(a) TAKING APPROPRIATE TECHNICAL AND ORGANIZATIONAL
18	MEASURES, INSOFAR AS THIS IS POSSIBLE, FOR THE FULFILLMENT OF THE
19	CONTROLLER'S OBLIGATIONS UNDER SECTION 6-1-1308.5; AND
20	(b) Providing information to enable the controller to
21	CONDUCT AND DOCUMENT DATA PROTECTION ASSESSMENTS PURSUANT TO
22	SECTION 6-1-1309.5.
23	(2) A CONTRACT BETWEEN A CONTROLLER AND A PROCESSOR
24	MUST SATISFY THE REQUIREMENTS IN SECTION $6-1-1305$ (5).
25	(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RELIEVE
26	A CONTROLLER OR PROCESSOR FROM THE LIABILITIES IMPOSED ON THE
27	CONTROLLER OR PROCESSOR BY VIRTUE OF THE CONTROLLER'S OR

-8- 041

1 PROCESSOR'S ROLE IN THE PROCESSING RELATIONSHIP AS DESCRIBED IN 2 SECTIONS 6-1-1308.5 AND 6-1-1309.5.

3 (4) DETERMINING WHETHER A PERSON IS ACTING AS A 4 CONTROLLER OR PROCESSOR WITH RESPECT TO A SPECIFIC PROCESSING OF 5 DATA IS A FACT-BASED DETERMINATION THAT DEPENDS UPON THE 6 CONTEXT IN WHICH PERSONAL DATA IS TO BE PROCESSED. A PERSON THAT 7 IS NOT LIMITED IN THE PERSON'S PROCESSING OF PERSONAL DATA 8 PURSUANT TO A CONTROLLER'S INSTRUCTIONS, OR THAT FAILS TO ADHERE 9 TO THE INSTRUCTIONS, IS A CONTROLLER AND NOT A PROCESSOR WITH 10 RESPECT TO A SPECIFIC PROCESSING OF DATA. A PROCESSOR THAT CONTINUES TO ADHERE TO A CONTROLLER'S INSTRUCTIONS WITH RESPECT 12 TO A SPECIFIC PROCESSING OF PERSONAL DATA REMAINS A PROCESSOR. IF 13 A PROCESSOR BEGINS, ALONE OR JOINTLY WITH OTHERS, DETERMINING THE PURPOSES AND MEANS OF THE PROCESSING OF PERSONAL DATA, THE 14 15 PROCESSOR IS A CONTROLLER WITH RESPECT TO THE PROCESSING AND MAY 16 BE SUBJECT TO AN ENFORCEMENT ACTION UNDER SECTION 6-1-1311.

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- 6-1-1308.5. Duties of controllers duty of care rebuttable **presumption.** (1)(a) A CONTROLLER THAT OFFERS ANY ONLINE SERVICE, PRODUCT, OR FEATURE TO A CONSUMER WHOM THE CONTROLLER ACTUALLY KNOWS OR WILLFULLY DISREGARDS IS A MINOR SHALL USE REASONABLE CARE TO AVOID ANY HEIGHTENED RISK OF HARM TO MINORS CAUSED BY THE ONLINE SERVICE, PRODUCT, OR FEATURE.
- (b) IN ANY ENFORCEMENT ACTION BROUGHT BY THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY PURSUANT TO SECTION 6-1-1311, THERE IS A REBUTTABLE PRESUMPTION THAT A CONTROLLER USED REASONABLE CARE AS REQUIRED UNDER THIS SECTION IF THE CONTROLLER COMPLIED WITH THIS SECTION.

041 -9-

1	(2) Unless a controller has obtained consent in
2	ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, A CONTROLLER
3	THAT OFFERS ANY ONLINE SERVICE, PRODUCT, OR FEATURE TO A
4	CONSUMER WHOM THE CONTROLLER ACTUALLY KNOWS OR WILLFULLY
5	DISREGARDS IS A MINOR SHALL NOT:
6	(a) PROCESS A MINOR'S PERSONAL DATA:
7	(I) FOR THE PURPOSES OF:
8	(A) TARGETED ADVERTISING;
9	(B) THE SALE OF PERSONAL DATA; OR
10	(C) Profiling in furtherance of decisions that produce
11	LEGAL OR SIMILARLY SIGNIFICANT EFFECTS CONCERNING A CONSUMER;
12	(II) FOR ANY PROCESSING PURPOSE OTHER THAN THE PROCESSING
13	PURPOSE THAT THE CONTROLLER DISCLOSED AT THE TIME THE
14	CONTROLLER COLLECTED THE MINOR'S PERSONAL DATA OR THAT IS
15	REASONABLY NECESSARY FOR, AND COMPATIBLE WITH, THE PROCESSING
16	PURPOSE THAT THE CONTROLLER DISCLOSED AT THE TIME THE
17	CONTROLLER COLLECTED THE MINOR'S PERSONAL DATA; OR
18	(III) FOR LONGER THAN IS REASONABLY NECESSARY TO PROVIDE
19	THE ONLINE SERVICE, PRODUCT, OR FEATURE;
20	(b) USE ANY SYSTEM DESIGN FEATURE TO SIGNIFICANTLY
21	INCREASE, SUSTAIN, OR EXTEND A MINOR'S USE OF THE ONLINE SERVICE,
22	PRODUCT, OR <u>FEATURE</u> ; <u>OR</u>
23	
24	(c) COLLECT A MINOR'S PRECISE GEOLOCATION DATA UNLESS:
25	(I) THE MINOR'S PRECISE GEOLOCATION DATA IS REASONABLY
26	NECESSARY FOR THE CONTROLLER TO PROVIDE THE ONLINE SERVICE,
27	PRODUCT, OR FEATURE;

-10-

I	(II) THE CONTROLLER ONLY COLLECTS <u>AND RETAINS</u> THE MINOR'S
2	PRECISE GEOLOCATION DATA FOR THE TIME NECESSARY TO PROVIDE THE
3	ONLINE SERVICE, PRODUCT, OR FEATURE; AND
4	(III) THE CONTROLLER PROVIDES TO THE MINOR A SIGNAL
5	INDICATING THAT THE CONTROLLER IS COLLECTING THE MINOR'S PRECISE
6	GEOLOCATION DATA AND MAKES THE SIGNAL AVAILABLE TO THE MINOR
7	FOR THE ENTIRE DURATION OF THE COLLECTION OF THE MINOR'S PRECISE
8	GEOLOCATION DATA.
9	(3) (a) A CONTROLLER SHALL NOT ENGAGE IN THE ACTIVITIES
10	DESCRIBED IN SUBSECTION (2) OF THIS SECTION UNLESS THE CONTROLLER
11	OBTAINS:
12	(I) THE MINOR'S CONSENT; OR
13	(II) (A) IF THE MINOR IS A CHILD, THE CONSENT OF THE MINOR'S
14	PARENT OR LEGAL GUARDIAN.
15	(B) A CONTROLLER THAT COMPLIES WITH THE VERIFIABLE
16	PARENTAL CONSENT REQUIREMENTS ESTABLISHED IN THE "CHILDREN'S
17	Online Privacy Protection Act of 1998", 15 U.S.C. sec. 6501 et
18	SEQ., AS AMENDED, AND THE REGULATIONS, RULES, GUIDANCE, AND
19	EXEMPTIONS ADOPTED PURSUANT TO SAID ACT, AS AMENDED, IS DEEMED
20	TO HAVE SATISFIED ANY REQUIREMENT TO OBTAIN PARENTAL CONSENT
21	UNDER THIS SUBSECTION (3)(a)(II).
22	(b) (I) A CONTROLLER THAT OFFERS ANY ONLINE SERVICE,
23	PRODUCT, OR FEATURE TO A CONSUMER WHOM THAT CONTROLLER
24	ACTUALLY KNOWS OR WILLFULLY DISREGARDS IS A MINOR SHALL NOT:
25	(A) PROVIDE ANY CONSENT MECHANISM THAT IS DESIGNED TO
26	SUBSTANTIALLY SUBVERT OR IMPAIR, OR IS MANIPULATED WITH THE
7	EFFECT OF SUBSTANTIALLY SUBVEDTING OD IMPAIDING USED AUTONOMY

-11- 041

1	DECISION-MAKING, OR CHOICE; OR
2	(B) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS
3	SECTION, OFFER ANY DIRECT MESSAGING APPARATUS FOR USE BY A MINOR
4	WITHOUT PROVIDING READILY ACCESSIBLE AND EASY-TO-USE
5	SAFEGUARDS TO LIMIT THE ABILITY OF AN ADULT TO SEND UNSOLICITED
6	COMMUNICATIONS TO THE MINOR WITH WHOM THE ADULT IS NOT
7	CONNECTED.
8	(II) Subsection (3)(b)(I)(B) of this section does not apply to
9	AN ONLINE SERVICE, PRODUCT, OR FEATURE OF WHICH THE PREDOMINANT
10	OR EXCLUSIVE FUNCTION IS:
11	(A) ELECTRONIC MAIL; OR
12	(B) DIRECT MESSAGING CONSISTING OF TEXT, PHOTOS, OR VIDEOS
13	THAT ARE SENT BETWEEN DEVICES BY ELECTRONIC MEANS, WHERE
14	MESSAGES ARE: SHARED BETWEEN THE SENDER AND THE RECIPIENT; ONLY
15	VISIBLE TO THE SENDER AND THE RECIPIENT; AND NOT POSTED PUBLICLY.
16	(4) SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION DO NOT APPLY
17	TO ANY SERVICE OR APPLICATION THAT IS USED BY AND UNDER THE
18	DIRECTION OF AN EDUCATIONAL ENTITY, INCLUDING A LEARNING
19	MANAGEMENT SYSTEM OR A STUDENT ENGAGEMENT PROGRAM.
20	6-1-1309.5. Data protection assessments. (1) A CONTROLLER
21	THAT, ON OR AFTER OCTOBER 1, 2025, OFFERS ANY ONLINE SERVICE,
22	PRODUCT, OR FEATURE TO A CONSUMER WHOM SUCH CONTROLLER
23	ACTUALLY KNOWS OR WILLFULLY DISREGARDS IS A MINOR SHALL
24	CONDUCT A DATA PROTECTION ASSESSMENT FOR THE ONLINE SERVICE,
25	PRODUCT, OR FEATURE:
26	(a) IN A MANNER THAT IS CONSISTENT WITH THE REQUIREMENTS
27	ESTABLISHED IN SECTION 6-1-1309; AND

-12- 041

1	(b) THAT ADDRESSES:
2	(I) THE PURPOSE OF THE ONLINE SERVICE, PRODUCT, OR FEATURE
3	(II) THE CATEGORIES OF A MINOR'S PERSONAL DATA THAT THE
4	ONLINE SERVICE, PRODUCT, OR FEATURE PROCESSES;
5	(III) THE PURPOSES FOR WHICH THE CONTROLLER PROCESSES A
6	MINOR'S PERSONAL DATA WITH RESPECT TO THE ONLINE SERVICE
7	PRODUCT, OR FEATURE; AND
8	(IV) ANY HEIGHTENED RISK OF HARM TO A MINOR THAT IS A
9	REASONABLY FORESEEABLE RESULT OF OFFERING THE ONLINE SERVICE.
10	PRODUCT, OR FEATURE TO A MINOR.
11	(2) A CONTROLLER THAT CONDUCTS A DATA PROTECTION
12	ASSESSMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL:
13	(a) REVIEW THE DATA PROTECTION ASSESSMENT AS NECESSARY TO
14	ACCOUNT FOR ANY MATERIAL CHANGE TO THE PROCESSING OPERATIONS
15	OF THE ONLINE SERVICE, PRODUCT, OR FEATURE THAT IS THE SUBJECT OF
16	THE DATA PROTECTION ASSESSMENT; AND
17	(b) Maintain documentation concerning the data
18	PROTECTION ASSESSMENT FOR THE LONGER OF:
19	(I) THREE YEARS AFTER THE DATE ON WHICH THE PROCESSING
20	OPERATIONS CEASE; OR
21	(II) THE DATE THE CONTROLLER CEASES OFFERING THE ONLINE
22	SERVICE, PRODUCT, OR FEATURE.
23	(3) A SINGLE DATA PROTECTION ASSESSMENT MAY ADDRESS A
24	COMPARABLE SET OF PROCESSING OPERATIONS THAT INCLUDE SIMILAR
25	ACTIVITIES.
26	(4) IF A CONTROLLER CONDUCTS A DATA PROTECTION ASSESSMENT
27	FOR THE PURPOSE OF COMPLYING WITH ANOTHER APPLICABLE LAW OR

-13- 041

1	REGULATION, THE DATA PROTECTION ASSESSMENT IS DEEMED TO SATISFY
2	THE REQUIREMENTS ESTABLISHED IN THIS SECTION IF THE DATA
3	PROTECTION ASSESSMENT IS REASONABLY SIMILAR IN SCOPE AND EFFECT
4	TO THE DATA PROTECTION ASSESSMENT THAT WOULD OTHERWISE BE
5	CONDUCTED PURSUANT TO THIS SECTION.
6	(5) IF A CONTROLLER CONDUCTS A DATA PROTECTION ASSESSMENT
7	PURSUANT TO SUBSECTION (1) OF THIS SECTION OR A DATA PROTECTION
8	ASSESSMENT REVIEW PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION
9	AND DETERMINES THAT THE ONLINE SERVICE, PRODUCT, OR FEATURE THAT
10	IS THE SUBJECT OF THE ASSESSMENT POSES A HEIGHTENED RISK OF HARM
11	TO A MINOR, THE CONTROLLER SHALL ESTABLISH AND IMPLEMENT A PLAN
12	TO MITIGATE OR ELIMINATE THE HEIGHTENED RISK.
13	(6) (a) A DATA PROTECTION ASSESSMENT CONDUCTED PURSUANT
14	TO THIS SECTION:
15	(I) IS CONFIDENTIAL, EXCEPT AS PROVIDED IN SUBSECTION (6)(b)
16	OF THIS SECTION; AND
17	(II) IS NOT A PUBLIC RECORD, AND IS EXEMPT FROM PUBLIC
18	INSPECTION AND COPYING, UNDER THE "COLORADO OPEN RECORDS ACT",
19	PART 2 OF ARTICLE 72 OF TITLE 24.
20	(b) (I) A CONTROLLER SHALL MAKE A DATA PROTECTION
21	ASSESSMENT CONDUCTED PURSUANT TO THIS SECTION AVAILABLE TO THE
22	ATTORNEY GENERAL UPON REQUEST. THE ATTORNEY GENERAL MAY
23	EVALUATE THE DATA PROTECTION ASSESSMENT FOR COMPLIANCE WITH
24	SECTION 6 -1-1308.5 and with other laws, including this article 1.
25	(II) THE DISCLOSURE OF A DATA PROTECTION ASSESSMENT
26	PURSUANT TO A REQUEST FROM THE ATTORNEY GENERAL DOES NOT
27	CONSTITUTE A WAIVER OF ANY ATTORNEY-CLIENT PRIVILEGE OR

-14- 041

1	WORK-PRODUCT PROTECTION THAT MIGHT OTHERWISE EXIST WITH
2	RESPECT TO THE ASSESSMENT AND ANY INFORMATION IN THE ASSESSMENT.
3	(7) Data protection assessment requirements apply to
4	PROCESSING ACTIVITIES CREATED OR GENERATED AFTER OCTOBER 1,
5	2025, AND ARE NOT RETROACTIVE.
6	SECTION 5. In Colorado Revised Statutes, 6-1-1311, amend
7	(1)(d) as follows:
8	6-1-1311. Enforcement - penalties - repeal. (1) (d) (I) Prior to
9	any enforcement action pursuant to subsection (1)(a) of this section,
10	OTHER THAN AN ENFORCEMENT ACTION DESCRIBED IN SUBSECTION
11	(1)(d)(II) OF THIS SECTION, the attorney general or district attorney must
12	issue a notice of violation to the controller if a cure is deemed possible.
13	If the controller fails to cure the violation within sixty days after receipt
14	of the notice of violation, an action may be brought pursuant to this
15	section. This $\frac{1}{d}$ SUBSECTION (1)(d)(I) is repealed, effective
16	January 1, 2025.
17	(II) PRIOR TO ANY ENFORCEMENT ACTION PURSUANT TO
18	SUBSECTION (1)(a) OF THIS SECTION TO ENFORCE SECTION 6-1-1305.5,
19	6-1-1308.5, OR 6-1-1309.5, THE ATTORNEY GENERAL OR DISTRICT
20	ATTORNEY MUST ISSUE A NOTICE OF VIOLATION TO THE CONTROLLER IF A
21	CURE IS DEEMED POSSIBLE. IF THE CONTROLLER FAILS TO CURE THE
22	VIOLATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE OF
23	VIOLATION, AN ACTION MAY BE BROUGHT PURSUANT TO THIS SECTION.
24	This subsection (1)(d)(II) is repealed, effective December 31, 2026.
25	SECTION 6. Act subject to petition - effective date -
26	applicability. (1) This act takes effect October 1, 2025; except that, if a
27	referendum petition is filed pursuant to section 1 (3) of article V of the

-15- 041

- state constitution against this act or an item, section, or part of this act
 within the ninety-day period after final adjournment of the general
 assembly, then the act, item, section, or part will not take effect unless
 approved by the people at the general election to be held in November
 2024 and, in such case, will take effect October 1, 2025, or on the date of
 the official declaration of the vote thereon by the governor, whichever is
 later.
- 8 (2) This act applies to conduct occurring on or after the applicable effective date of this act.

-16- 041