

FIRST REPORT OF FIRST CONFERENCE COMMITTEE
ON SB22-113

THIS REPORT AMENDS THE
REENGROSSED BILL

To the President of the Senate and the
Speaker of the House of Representatives:

Your first conference committee appointed on SB22-113, concerning the use of personal identifying data, and, in connection therewith, creating a task force for the consideration of artificial intelligence, restricting the use of facial recognition services by state and local government agencies, temporarily prohibiting the use of facial recognition services by public schools, and making an appropriation, has met and reports that it has agreed upon the following:

That the House recede from its amendments made to the bill, as the amendments appear in the rerevised bill, and that the following amendments be substituted therefor:

Amend reengrossed bill, page 3, strike lines 2 through 10.

Strike pages 4 through 9.

Page 10, strike lines 1 through 8 and substitute:

"SECTION 1. In Colorado Revised Statutes, **add** 2-3-1707 as follows:

2-3-1707. Task force for the consideration of facial recognition services - creation - membership - duties - compensation - staff support - repeal. (1) **Creation - membership.** (a) THERE IS CREATED A TASK FORCE FOR THE CONSIDERATION OF FACIAL RECOGNITION SERVICES. THE TASK FORCE CONSISTS OF THE FOLLOWING FIFTEEN MEMBERS:

(I) THE CHIEF INFORMATION OFFICER APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 24-37.5-103 (1) OR THE CHIEF

INFORMATION OFFICER'S DESIGNEE;

(II) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE;

(III) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION CREATED IN SECTION 24-33.5-401 OR THE DIRECTOR'S DESIGNEE;

(IV) ONE MEMBER WHO REPRESENTS THE COLORADO DISTRICT ATTORNEYS' COUNCIL, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(V) ONE MEMBER WHO REPRESENTS EITHER THE COUNTY SHERIFFS OF COLORADO OR THE COLORADO ASSOCIATION OF CHIEFS OF POLICE, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(VI) ONE MEMBER WHO IS A STATE REPRESENTATIVE, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(VII) ONE MEMBER WHO IS A STATE SENATOR, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(VIII) ONE MEMBER WHO REPRESENTS LOCAL SCHOOL DISTRICT BOARDS OF EDUCATION, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(IX) ONE MEMBER WHO IS AN INSTRUCTOR AT AN INSTITUTION OF HIGHER EDUCATION AND HAS EXPERT KNOWLEDGE OF, AND EXPERIENCE WITH, FACIAL RECOGNITION SERVICES TECHNOLOGY, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(X) ONE MEMBER WHO IS A BUSINESS PROFESSIONAL WITH EXPERT KNOWLEDGE OF, AND EXPERIENCE WITH, FACIAL RECOGNITION SERVICES PRODUCTS, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(XI) ONE MEMBER WHO IS AN ATTORNEY WITH EXPERT KNOWLEDGE OF, AND EXPERIENCE WITH, FEDERAL AND STATE LAWS CONCERNING FACIAL RECOGNITION SERVICES, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(XII) ONE MEMBER WHO REPRESENTS THE COLORADO CRIMINAL DEFENSE BAR, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(XIII) ONE MEMBER WHO REPRESENTS A CONSUMER PROTECTION ASSOCIATION, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(XIV) ONE MEMBER WHO REPRESENTS A STATEWIDE CIVIL LIBERTIES ORGANIZATION, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; AND

(XV) ONE MEMBER WHO REPRESENTS DISPROPORTIONATELY IMPACTED COMMUNITIES, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE.

(b) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE SHALL MAKE EACH OF THE INITIAL

APPOINTMENTS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION NOT LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(c) THE TERMS OF THE APPOINTED MEMBERS OF THE TASK FORCE ARE AS FOLLOWS:

(I) THE STATE REPRESENTATIVE APPOINTED PURSUANT TO SUBSECTION (1)(a)(VI) OF THIS SECTION MAY SERVE INDEFINITELY, AT THE DISCRETION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, SO LONG AS THE PERSON REMAINS A STATE REPRESENTATIVE;

(II) THE STATE SENATOR APPOINTED PURSUANT TO SUBSECTION (1)(a)(VII) OF THIS SECTION MAY SERVE INDEFINITELY, AT THE DISCRETION OF THE PRESIDENT OF THE SENATE, SO LONG AS THE PERSON REMAINS A STATE SENATOR;

(III) THE INITIAL TERMS OF THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS (1)(a)(IV), (1)(a)(V), (1)(a)(VIII), (1)(a)(IX), AND (1)(a)(X) OF THIS SECTION ARE TWO YEARS, AND THEREAFTER THE TERMS OF SUCH MEMBERS ARE FOUR YEARS; AND

(IV) THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS (1)(a)(XI) TO (1)(a)(XV) OF THIS SECTION SHALL SERVE TERMS OF FOUR YEARS.

(d) ANY VACANCY THAT OCCURS AMONG THE APPOINTED MEMBERS OF THE TASK FORCE SHALL BE FILLED BY THE APPROPRIATE APPOINTING AUTHORITY AS SOON AS PRACTICABLE IN ACCORDANCE WITH THE LIMITATIONS SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.

(e) IN MAKING APPOINTMENTS TO THE TASK FORCE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE SHALL ENSURE THAT THE MEMBERSHIP OF THE TASK FORCE:

(I) REFLECTS THE ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE;

(II) INCLUDES REPRESENTATION OF ALL AREAS OF THE STATE, INCLUDING PERSONS WHO DO NOT RESIDE IN THE FRONT RANGE REGION OF THE STATE; AND

(III) TO THE EXTENT PRACTICABLE, INCLUDES PERSONS WITH DISABILITIES.

(f) NOT LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE PRESIDENT OF THE SENATE SHALL APPOINT A MEMBER OF THE TASK FORCE TO SERVE AS THE INITIAL CHAIR OF THE TASK FORCE. THEREAFTER, THE CHAIR OF THE TASK FORCE SHALL BE APPOINTED ANNUALLY ON OR BEFORE JULY 1, WITH THE SPEAKER OF THE HOUSE OF REPRESENTATIVES APPOINTING THE CHAIR IN ODD-NUMBERED YEARS AND THE PRESIDENT OF THE SENATE APPOINTING THE CHAIR IN EVEN-NUMBERED YEARS.

(2) **Issues for study.** THE TASK FORCE SHALL EXAMINE AND,

PURSUANT TO SUBSECTION (3)(e) OF THIS SECTION, REPORT TO THE COMMITTEE CONCERNING THE EXTENT TO WHICH STATE AND LOCAL GOVERNMENT AGENCIES ARE CURRENTLY USING FACIAL RECOGNITION SERVICES AND PROVIDE RECOMMENDATIONS CONCERNING THE EXTENT TO WHICH STATE AND LOCAL GOVERNMENT AGENCIES SHOULD BE PERMITTED TO USE FACIAL RECOGNITION SERVICES, INCLUDING CONSIDERATION OF:

(a) REGULATION, APPROVAL, AND PROCUREMENT OF FACIAL RECOGNITION SERVICES;

(b) ACCESS TO DATA COLLECTED BY FACIAL RECOGNITION SERVICES;

(c) EDUCATION OF THE PUBLIC CONCERNING FACIAL RECOGNITION SERVICES, INCLUDING IN PUBLIC SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION;

(d) ETHICAL CONSIDERATIONS RELATING TO THE USE OF FACIAL RECOGNITION SERVICES;

(e) TRANSPARENCY AND DISCLOSURE REQUIREMENTS CONCERNING HOW STATE AND LOCAL GOVERNMENT AGENCIES USE FACIAL RECOGNITION SERVICES;

(f) THE POTENTIAL ABUSES AND THREATS POSED TO CIVIL LIBERTIES, FREEDOMS, PRIVACY, AND SECURITY BY THE USE OF FACIAL RECOGNITION SERVICES;

(g) THE POTENTIAL IMPACT OF THE USE OF FACIAL RECOGNITION SERVICES ON VULNERABLE COMMUNITIES; AND

(h) HOW TO FACILITATE AND ENCOURAGE THE CONTINUED DEVELOPMENT OF FACIAL RECOGNITION SERVICES SO THAT INDIVIDUALS, BUSINESSES, GOVERNMENTS, AND OTHER INSTITUTIONS CAN BENEFIT FROM THEIR USE WHILE SAFEGUARDING AGAINST POTENTIAL ABUSES AND THREATS.

(3) **Additional duties of the task force.** THE TASK FORCE SHALL:

(a) MEET ON OR BEFORE DECEMBER 1, 2022, AT A TIME AND PLACE TO BE DETERMINED BY THE CHAIR OF THE TASK FORCE;

(b) MEET AT LEAST ONCE EVERY FOUR MONTHS, OR MORE OFTEN AS DIRECTED BY THE CHAIR OF THE COMMITTEE;

(c) COMMUNICATE WITH AND OBTAIN INPUT FROM GROUPS THROUGHOUT THE STATE AFFECTED BY THE ISSUES IDENTIFIED IN SUBSECTION (2) OF THIS SECTION;

(d) CREATE SUBCOMMITTEES AS NEEDED TO CARRY OUT THE DUTIES OF THE TASK FORCE. THE SUBCOMMITTEES MAY CONSIST, IN PART, OF PERSONS WHO ARE NOT MEMBERS OF THE TASK FORCE. SUCH PERSONS MAY VOTE ON ISSUES BEFORE THE SUBCOMMITTEE BUT ARE NOT ENTITLED TO VOTE AT MEETINGS OF THE TASK FORCE.

(e) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), SUBMIT A

REPORT TO THE COMMITTEE ON OR BEFORE OCTOBER 1, 2023, AND ON OR BEFORE EACH OCTOBER 1 THEREAFTER, THAT, AT A MINIMUM:

(I) DESCRIBES ISSUES TO BE STUDIED IN UPCOMING TASK FORCE MEETINGS AND A PRIORITIZATION OF THOSE ISSUES;

(II) DESCRIBES FINDINGS AND RECOMMENDATIONS REGARDING ISSUES CONSIDERED BY THE TASK FORCE;

(III) DESCRIBES LEGISLATIVE PROPOSALS THAT IDENTIFY THE POLICY ISSUES INVOLVED, THE AGENCIES RESPONSIBLE FOR THE IMPLEMENTATION OF THE CHANGES, AND THE FUNDING SOURCES REQUIRED FOR IMPLEMENTATION;

(IV) INCLUDES RECOMMENDATIONS CONCERNING:

(A) THE REQUIREMENTS AND RESTRICTIONS DESCRIBED IN PART 3 OF ARTICLE 18 OF TITLE 24; AND

(B) THE PROHIBITIONS AND EXCEPTIONS DESCRIBED IN SECTIONS 22-30.5-529 AND 22-32-150; AND

(V) INCLUDES A RECOMMENDATION AS TO WHETHER THE SCOPE OF THE ISSUES FOR STUDY BY THE TASK FORCE, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, SHOULD BE EXPANDED TO INCLUDE CONSIDERATION OF ARTIFICIAL INTELLIGENCE OTHER THAN FACIAL RECOGNITION SERVICES, OR EVEN ARTIFICIAL INTELLIGENCE ITSELF, AND, IF SO, WHETHER THE MEMBERSHIP OF THE TASK FORCE SHOULD BE ADJUSTED ACCORDINGLY.

(4) **Compensation.** NONLEGISLATIVE MEMBERS OF THE TASK FORCE AND NONLEGISLATIVE MEMBERS OF ANY SUBCOMMITTEES OF THE TASK FORCE SERVE WITHOUT COMPENSATION. COMPENSATION OF LEGISLATIVE MEMBERS IS PAID FROM APPROPRIATIONS TO THE GENERAL ASSEMBLY.

(5) **Staff support.** THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE AS THE DIRECTOR OF RESEARCH DEEMS APPROPRIATE, SUBJECT TO AVAILABLE APPROPRIATIONS. THE TASK FORCE MAY ALSO ACCEPT DONATIONS OF IN-KIND SERVICES FOR STAFF SUPPORT FROM THE PRIVATE SECTOR.

(6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. PRIOR TO THE REPEAL, THE TASK FORCE IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, add (18.5)(a)(III) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (18.5) (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2027:

(III) THE TASK FORCE FOR THE CONSIDERATION OF FACIAL

RECOGNITION SERVICES CREATED IN SECTION 2-3-1707."

Page 12, line 15, strike "ARTIFICIAL INTELLIGENCE" and substitute "FACIAL RECOGNITION SERVICES".

Page 13, line 27, strike "OR".

Page 13, after line 27 insert:

"(II) A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A TABLET OR SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL FEATURES IN ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN ADDRESS BOOK OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD USE; OR".

Page 14, line 1, strike "(II)" and substitute "(III)".

Page 19, line 25, after "ACCOUNTABILITY" insert "REPORT".

Page 24, strike line 1 and substitute:

"(b) SUCH USE IS NECESSARY TO DEVELOP LEADS IN AN INVESTIGATION;".

Page 26, line 12, strike "THIS" and substitute "NOTWITHSTANDING ANY PROVISION OF THIS PART 3 TO THE CONTRARY, THIS".

Page 26, strike line 17 and substitute "FULFILL A CONGRESSIONAL MANDATE, FULFILL AVIATION SECURITY DIRECTIVES, OR COMPLY WITH FEDERAL LAW;".

Page 26, after line 20 insert:

"(III) USES A FACIAL RECOGNITION SERVICE IN CONNECTION WITH A PHYSICAL ACCESS CONTROL SYSTEM IN ORDER TO GRANT OR DENY ACCESS TO A SECURE AREA;".

Page 26, strike line 25 and substitute "CONCERNING INDIVIDUALS; OR
(c) A UTILITY."

Strike pages 27 through 29 and substitute:

"22-32-150. Contracting for facial recognition service by schools prohibited - definition - repeal. (1) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, A SCHOOL DISTRICT OR A SCHOOL OR A CHARTER SCHOOL OF A SCHOOL DISTRICT SHALL NOT EXECUTE A

CONTRACT WITH ANY VENDOR FOR THE PURCHASE OF, OR FOR SERVICES RELATED TO, ANY FACIAL RECOGNITION SERVICE.

(2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO:

(a) A CONTRACT THAT WAS EXECUTED BEFORE THE EFFECTIVE DATE OF THIS SECTION, INCLUDING SUCH A CONTRACT THAT IS RENEWED AFTER THE EFFECTIVE DATE OF THIS SECTION; OR

(b) A CONTRACT FOR THE PURCHASE OF, OR FOR SERVICES RELATED TO, A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A TABLET OR SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL FEATURES IN ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN ADDRESS BOOK OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD USE.

(3) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS THE MEANING SET FORTH IN SECTION 24-18-301 (5).

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 6. In Colorado Revised Statutes, **add 22-30.5-529** as follows:

22-30.5-529. Contracting for facial recognition service by institute charter schools prohibited - definition - repeal. (1) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AN INSTITUTE CHARTER SCHOOL SHALL NOT EXECUTE A CONTRACT WITH ANY VENDOR FOR THE PURCHASE OF, OR FOR SERVICES RELATED TO, ANY FACIAL RECOGNITION SERVICE.

(2) THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO:

(a) A CONTRACT THAT WAS EXECUTED BEFORE THE EFFECTIVE DATE OF THIS SECTION, INCLUDING SUCH A CONTRACT THAT IS RENEWED AFTER THE EFFECTIVE DATE OF THIS SECTION; OR

(b) A CONTRACT FOR THE PURCHASE OF, OR FOR SERVICES RELATED TO, A GENERALLY AVAILABLE CONSUMER PRODUCT, INCLUDING A TABLET OR SMARTPHONE, THAT ALLOWS FOR THE ANALYSIS OF FACIAL FEATURES IN ORDER TO FACILITATE THE USER'S ABILITY TO MANAGE AN ADDRESS BOOK OR STILL OR VIDEO IMAGES FOR PERSONAL OR HOUSEHOLD USE.

(3) AS USED IN THIS SECTION, "FACIAL RECOGNITION SERVICE" HAS THE MEANING SET FORTH IN SECTION 24-18-301 (5).

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 7. In Colorado Revised Statutes, **18-5.5-102, add (5)** as follows:

18-5.5-102. Cybercrime. (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN INDIVIDUAL MAY AUTHORIZE AN AGENT

TO ACCESS AND PROCESS, ON THAT INDIVIDUAL'S BEHALF, THAT INDIVIDUAL'S PERSONAL DATA OR OTHER INFORMATION HELD ON A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM AND THAT IS OTHERWISE ACCESSIBLE TO THE INDIVIDUAL. AN AUTHORIZED AGENT REMAINS LIABLE FOR ANY UNAUTHORIZED ACTIVITY ON A SYSTEM UNDER APPLICABLE UNFAIR COMPETITION LAWS; THE FEDERAL "COMPUTER FRAUD AND ABUSE ACT", 18 U.S.C. SEC. 1030 ET SEQ., AS AMENDED; AND OTHER PROVISIONS OF THIS SECTION.

SECTION 8. In Colorado Revised Statutes, 24-30-1404, **amend** (7)(h) as follows:

24-30-1404. Contracts - definition. (7) (h) The six-month deadline imposed by ~~paragraph (a) of this subsection (7)~~ SUBSECTION (7)(a) OF THIS SECTION does not apply to information technology projects that are overseen by the joint technology committee pursuant to part 17 of article 3 of title 2. ~~C.R.S. For the purposes of this paragraph (h)~~ AS USED IN THIS SUBSECTION (7)(h), "information technology" has the same meaning as provided in ~~section 2-3-1701 (2), C.R.S.~~ SECTION 2-3-1701 (7).

SECTION 9. In Colorado Revised Statutes, 24-37-101, **amend** the introductory portion and (5) as follows:

24-37-101. Definitions. As used in this ~~article~~ ARTICLE 37, unless the context otherwise requires:

(5) "Information technology budget request" has the same meaning as set forth in ~~section 2-3-1701 (2.5), C.R.S.~~ SECTION 2-3-1701 (8).

SECTION 10. Appropriation. (1) For the 2022-23 state fiscal year, \$11,109 is appropriated to the legislative department. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

- (a) \$943 for use by the general assembly; and
- (b) \$10,166 for use by the legislative council, which amount is based on an assumption that the legislative council will require an additional 0.2 FTE.

SECTION 11. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor."

Page 1, line 103, strike "ARTIFICIAL INTELLIGENCE," and substitute "FACIAL RECOGNITION SERVICES,".

Page 1, strike lines 106 and 107 and substitute "PUBLIC SCHOOLS FROM EXECUTING NEW CONTRACTS FOR FACIAL RECOGNITION SERVICES, AND MAKING AN APPROPRIATION.".

Respectfully submitted,

Senate Committee:

House Committee:

Chair

Chair
