

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 11, 2024
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB24-011 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, after line 1 insert:
2 **"SECTION 1. Legislative declaration.** (1) The general
3 assembly finds and declares that:
4 (a) Three in ten adults, including half of 18- to 29-year-olds, in
5 the United States have used a dating site or app;
6 (b) 31% of women on dating apps surveyed had been sexually
7 assaulted or raped by someone they met through a dating app;
8 (c) Three in four users experienced dating app-facilitated sexual
9 violence, with the highest rates among LGBTQIA users;
10 (d) It is relatively easy for minors to create profiles and use dating
11 apps, because most apps do not verify the identity or age of the account
12 holder;
13 (e) Predators have repeatedly used dating app platforms for serial
14 criminal enterprises for financial fraud, as well as stalking, homicide, and
15 rape;
16 (f) Colorado is in the top five most dangerous states for online
17 dating;
18 (g) The small size and inexpensive nature of available tracking
19 devices enable tracking devices to increasingly be used to track people
20 and their property without consent;
21 (h) From 2019 to 2023, there was a 550% increase in sexual
22 deepfakes published online;
23 (i) Intimate image abuse, including images that are digitally
24 created or altered, affects survivors' mental health, including a high risk
25 of suicide, and may negatively impact survivors' employment prospects,
26 academic success, and physical well-being; and
27 (j) The risks and reality of technology-facilitated crimes impacts
28 the public and is a matter of statewide public safety and concern.

- 1 (2) Therefore, in order to improve the public health, safety, and
2 welfare of Coloradans, it is necessary to ensure that:
- 3 (a) Each online dating service develops thoughtful and transparent
4 safety policies that are posted in a conspicuous place on the service's
5 website or app for users;
- 6 (b) Online dating services take prompt remedial action for
7 misconduct carried out through dating sites or apps;
- 8 (c) Data regarding the frequency of reported misconduct and the
9 responses of dating sites or apps is tracked and available to consumers;
- 10 (d) An online dating service can be held accountable when it fails
11 to act on reports of misconduct or criminal attacks;
- 12 (e) Consent is required for tracking a person or another's property;
13 and
- 14 (f) Existing intimate image abuse laws include deepfakes and
15 digitally altered images."

16 Renumber succeeding sections accordingly.

17 Page 3, line 5, after "**report -**" insert "**rules -**".

18 Page 3, after line 6 insert:

19 "(a) "HARASS" OR "HARASSMENT" MEANS TO ENGAGE IN, OR THE
20 ACT OF ENGAGING IN, ANY UNWELCOME PHYSICAL OR VERBAL CONDUCT
21 OR ANY WRITTEN, PICTORIAL, OR VISUAL COMMUNICATION DIRECTED AT
22 A MEMBER, WHICH CONDUCT OR COMMUNICATION IS SUBJECTIVELY
23 OFFENSIVE TO THE MEMBER ALLEGING HARASSMENT AND IS OBJECTIVELY
24 OFFENSIVE TO A REASONABLE MEMBER."

25 Reletter succeeding paragraphs accordingly.

26 Page 3, after line 8 insert:

27 "(c) "MISCONDUCT THAT THREATENS PUBLIC OR PERSONAL
28 SAFETY" MEANS AN ACT, THREATENED ACT, OR ATTEMPTED ACT OF
29 HOMICIDE, UNLAWFUL SEXUAL BEHAVIOR, ASSAULT, KIDNAPPING,
30 STALKING, HARASSMENT, INVOLUNTARY INTOXICATION, ROBBERY, THEFT,
31 OR ANY OTHER CONDUCT THAT THREATENS PUBLIC OR ANOTHER PERSON'S
32 SAFETY."

33 Reletter succeeding paragraphs accordingly.

34 Page 3, line 20, strike "NO LATER THAN NOVEMBER 1, 2024, AN" and
35 substitute "AN".

- 1 Page 4, after line 3 insert:
2 "(a) A DESCRIPTION OF PROHIBITED CONTENT AND CONDUCT USED
3 BY THE ONLINE DATING SERVICE, WHICH MUST INCLUDE MISCONDUCT
4 THAT THREATENS PUBLIC OR PERSONAL SAFETY."
- 5 Reletter succeeding paragraphs accordingly.
- 6 Page 4, line 7, strike "HAS" and substitute "IS FOUND TO HAVE".
- 7 Page 4, line 8, after "WHICH" insert "TYPES OF".
- 8 Page 4, strike lines 9 through 11 and substitute:
9 "(c) A DESCRIPTION OF WHETHER AND WHEN THE ONLINE DATING
10 SERVICE VERIFIES A MEMBER'S IDENTITY OR THAT THE MEMBER IS AT
11 LEAST EIGHTEEN YEARS OF AGE;"
- 12 Page 4, line 22, before "CONDUCT" insert "CONTENT AND".
- 13 Page 4, line 23, strike "OF MISCONDUCT".
- 14 Page 4, line 27, strike "BE REASONABLY DESIGNED TO REDUCE" and
15 substitute "WARN MEMBERS NOT TO SUBMIT FALSE REPORTS OR REPORT
16 FOR MALICIOUS, BIASED, OR OTHER ILLEGITIMATE REASONS."
- 17 Page 5, strike lines 1 and 2.
- 18 Page 5, strike line 8, and substitute "IN COLORADO WHO EXPERIENCE
19 SEXUAL ASSAULT, DOMESTIC VIOLENCE, AND OTHER CRIMES; AND".
- 20 Page 5, strike lines 12 through 27 and substitute:
21 "(3) AN ONLINE DATING SERVICE SHALL POST A CLEAR AND
22 CONSPICUOUS LINK TO THE SERVICE'S SAFETY POLICY ON THE MAIN PAGE
23 OF ITS WEBSITE AND ON THE SETTINGS, OR A SIMILAR SCREEN, OF ITS
24 MOBILE APPLICATION, IF APPLICABLE, AND INCLUDE A LINK TO THE SAFETY
25 POLICY IN A DATING SERVICE CONTRACT DESCRIBED IN SECTION 6-1-731.
26 THE TEXT OF EACH LINK MUST EXPLICITLY INFORM A COLORADO MEMBER
27 THAT THE LINK NAVIGATES THE MEMBER TO THE ONLINE DATING SERVICE'S
28 SAFETY POLICY.
29 (4) (a) AN ONLINE DATING SERVICE SHALL SUBMIT THE URL FOR
30 ITS SAFETY POLICY POSTED ON ITS WEBSITE TO THE ATTORNEY GENERAL'S
31 OFFICE WITHIN FIFTEEN DAYS AFTER ENACTING THE SAFETY POLICY. IF AN
32 ONLINE DATING SERVICE UPDATES THE URL FOR ITS SAFETY POLICY, IT

1 SHALL SUBMIT THE UPDATED URL TO THE ATTORNEY GENERAL'S OFFICE
2 WITHIN SEVEN DAYS AFTER UPDATING THE URL."

3 (b) ON OR BEFORE JANUARY 31, 2026, AND ON OR BEFORE
4 JANUARY 31 OF EACH YEAR THEREAFTER, AN ONLINE DATING SERVICE
5 SHALL SUBMIT AN ANNUAL REPORT TO THE ATTORNEY GENERAL'S OFFICE
6 CONCERNING MEMBER SAFETY AND THE ONLINE DATING SERVICE'S
7 COMPLIANCE WITH THIS SECTION. THE REPORT MUST INCLUDE THE
8 INFORMATION REQUIRED BY THE RULES PROMULGATED PURSUANT TO THIS
9 SECTION.

10 (c) THE REPORT REQUIRED PURSUANT TO SUBSECTION (4)(b) OF
11 THIS SECTION IS ONLY REQUIRED TO INCLUDE INFORMATION ABOUT A
12 MEMBER LOCATED IN, OR REPORTS MADE BY A MEMBER LOCATED IN,
13 COLORADO, IF THAT INFORMATION IS AVAILABLE. IF THAT INFORMATION
14 IS NOT AVAILABLE, THE REPORT MUST INCLUDE INFORMATION FROM THE
15 ENTIRE UNITED STATES.

16 (4.5) THE ATTORNEY GENERAL MAY PROMULGATE RULES TO
17 CARRY OUT THIS SECTION."

18 Page 6, strike lines 1 through 9.

19 Page 6, line 16, after "MEMBER" insert "WHOSE IDENTITY IS KNOWN OR
20 CAN REASONABLY BE KNOWN BY THE ONLINE DATING SERVICE".

21 Page 6, strike lines 19 through 27 and substitute "LIABLE FOR THE FULL
22 AMOUNT OF THE MEMBER'S ACTUAL DAMAGES RESULTING FROM THE
23 INCIDENT.

24 (7) (a) NOTHING IN THIS SECTION ALTERS THE SCOPE OF THE
25 FEDERAL "COMMUNICATIONS DECENCY ACT OF 1996", 47 U.S.C. SEC.
26 230.

27 (b) NOTHING IN THIS SECTION LIMITS ANY RIGHTS OR REMEDIES OF
28 AN INJURED PARTY THAT ARE AVAILABLE UNDER COLORADO LAW NOR
29 REMOVES ANY REMEDIES AVAILABLE TO AN INJURED PERSON PRIOR TO THE
30 EFFECTIVE DATE OF THIS SECTION.

31 (c) AN ONLINE DATING SERVICE IS NOT LIABLE TO A BARRED OR
32 SUSPENDED MEMBER FOR TAKING, IN GOOD FAITH, REMEDIAL ACTION IN
33 ACCORDANCE WITH ITS MEMBERSHIP AGREEMENT AGAINST A MEMBER FOR
34 VIOLATING THE SERVICE'S SAFETY POLICY.

35 **SECTION 3.** In Colorado Revised Statutes, **add** 6-1-735 as
36 follows:

37 **6-1-735. Social media companies - unfair trade practice -**
38 **complying with company policies regarding computer generated**
39 **sexual images - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
40 CONTEXT OTHERWISE REQUIRES:

1 (a) "COMPUTER GENERATED OR DIGITALLY ALTERED SEXUAL
2 IMAGE" MEANS A PHOTOGRAPH, FILM, VIDEOTAPE, RECORDING, DIGITAL
3 FILE, OR OTHER REPRODUCTION THAT:
4 (I) DEPICTS AN ACTUAL PERSON WHO APPEARS TO BE ENGAGING IN
5 SPEECH OR CONDUCT IN WHICH THE PERSON DID NOT ENGAGE AND IS SO
6 REALISTIC THAT A REASONABLE PERSON WOULD BELIEVE IT DEPICTS THE
7 ACTUAL SPEECH OR CONDUCT OF THE DEPICTED PERSON;
8 (II) WAS SUBSTANTIALLY DEPENDENT UPON PRODUCTION BY
9 TECHNICAL MEANS, RATHER THAN THE ABILITY OF ANOTHER PERSON TO
10 PHYSICALLY OR VERBALLY IMPERSONATE THE DEPICTED PERSON; AND
11 (III) REALISTICALLY DEPICTS THE PRIVATE INTIMATE PARTS OR
12 SEXUAL ACTS OF ANOTHER PERSON AS THE PRIVATE INTIMATE PARTS OR
13 SEXUAL ACTS OF THE DEPICTED PERSON OR ARTIFICIALLY GENERATED
14 PRIVATE INTIMATE PARTS OR SEXUAL ACTS AS THE PRIVATE INTIMATE
15 PARTS OR SEXUAL ACTS OF THE DEPICTED PERSON.
16 (b) "REMEDIAL ACTION" MEANS SUSPENDING A USER'S ACCOUNT
17 FROM A SOCIAL MEDIA PLATFORM OR BARRING A USER FROM A PLATFORM.
18 (c) "SOCIAL MEDIA COMPANY" OR "COMPANY" MEANS A PERSON
19 THAT OWNS OR OPERATES ONE OR MORE SOCIAL MEDIA PLATFORMS.
20 (d) "SOCIAL MEDIA PLATFORM" MEANS AN INTERNET-BASED
21 SERVICE OR APPLICATION THAT HAS USERS IN COLORADO AND MEETS
22 BOTH OF THE FOLLOWING CRITERIA:
23 (I) A SUBSTANTIAL FUNCTION OF THE SERVICE OR APPLICATION IS
24 TO ALLOW USERS TO INTERACT SOCIALLY WITH EACH OTHER WITHIN THE
25 SERVICE OR APPLICATION; AND
26 (II) THE SERVICE OR APPLICATION ALLOWS A USER TO:
27 (A) BECOME A REGISTERED USER, ESTABLISH AN ACCOUNT, OR
28 CONSTRUCT A PUBLIC OR SEMI-PUBLIC PROFILE FOR PURPOSES OF SIGNING
29 INTO AND USING THE SERVICE OR APPLICATION; AND
30 (B) CREATE OR POST CONTENT THAT IS VIEWABLE BY OTHER
31 USERS.
32 (e) "USER" MEANS ANY PERSON WHO CAN VIEW CONTENT ON A
33 SOCIAL MEDIA PLATFORM, REGARDLESS OF WHETHER THE PLATFORM
34 CHARGES A FEE TO VIEW CONTENT OR PARTICIPATE ON THE PLATFORM AND
35 REGARDLESS OF WHETHER THE PERSON HAS AN ACCOUNT OR OTHERWISE
36 REGISTERS WITH THE PLATFORM.
37 (2) (a) A SOCIAL MEDIA COMPANY SHALL PROHIBIT POSTING A
38 COMPUTER GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE ON ITS
39 SOCIAL MEDIA PLATFORM WITHOUT THE CONSENT OF THE PERSON
40 DEPICTED IN THE IMAGE.
41 (b) A SOCIAL MEDIA COMPANY SHALL HAVE A POLICY THAT
42 INCLUDES A PROCESS FOR A USER TO FLAG CONTENT OR OTHER USERS
43 THAT THE USER BELIEVES VIOLATE THE PROHIBITION ON POSTING A

1 COMPUTER GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE AND
2 STANDARDS FOR TAKING REMEDIAL ACTION AGAINST A USER WHO POSTS
3 A COMPUTER GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE ON THE
4 COMPANY'S SOCIAL MEDIA PLATFORM.

5 (3) FOR THE PURPOSES OF SECTION 6-1-113 (1)(a), IF A SOCIAL
6 MEDIA COMPANY RECEIVED A REPORT THAT A USER POSTED A COMPUTER
7 GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE ON ITS SOCIAL MEDIA
8 PLATFORM AND THE SOCIAL MEDIA COMPANY FAILED TO REMOVE THE
9 IMAGE FROM ITS SOCIAL MEDIA PLATFORM AND TAKE REMEDIAL ACTION
10 AGAINST THE USER IN ACCORDANCE WITH THE COMPANY'S POLICY, THE
11 FAILURE TO REMOVE THE IMAGE AND TAKE REMEDIAL ACTION IS PRIMA
12 FACIE EVIDENCE THAT ANY OTHER USER WHO VIEWED THE IMAGE AFTER
13 THE IMAGE WAS FLAGGED WAS INJURED AS A RESULT OF AN UNFAIR TRADE
14 PRACTICE BY THE SOCIAL MEDIA COMPANY."

15 Renumber succeeding sections accordingly.

16 Page 7, strike line 2 and substitute:
17 "(1)(cccc); and **add** (1)(eeee) and (1)(ffff) as follows:".

18 Page 7, strike lines 8 and 9.

19 Page 7, line 10, strike "6-1-731.5." and substitute "6-1-731.5; OR
20 (ffff) VIOLATES SECTION 6-1-735."

21 Page 8, line 15, after the period add "AN ACTOR IS LIABLE TO THE EXTENT
22 THE ACTOR'S CONDUCT WAS THE PROXIMATE CAUSE OF THE HARM CAUSED
23 BY THE TRACKING DEVICE OR TRACKING APPLICATION."

24 Page 8, line 24, strike "INVESTIGATION OR" and substitute
25 "INVESTIGATION;".

26 Page 8, line 25, strike "DUTIES." and substitute "DUTIES; OR A PUBLIC
27 HIGHWAY AUTHORITY, CREATED PURSUANT TO PART 5 OF ARTICLE 4 OF
28 TITLE 43, ACTING WITHIN THE SCOPE OF ITS AUTHORITY TO COLLECT
29 TOLLS."

30 Page 8, strike lines 26 and 27 and substitute:
31 "**SECTION 7.** In Colorado Revised Statutes, 18-7-107, **amend**
32 (1)(a) introductory portion; and **add** (2.5) as follows:
33 **18-7-107. Posting a private image for harassment - definitions.**
34 (1) (a) An actor who is eighteen years of age or older commits the
35 offense of posting a private image for harassment if ~~he or she~~ THE ACTOR

1 posts or distributes through the use of social media or any website any
2 photograph, video, or other image displaying the REAL OR SIMULATED
3 private intimate parts of an identified or identifiable person eighteen years
4 of age or older or an image displaying sexual acts of an identified or
5 identifiable person:

6 (2.5) IT IS NOT A DEFENSE TO AN ALLEGED VIOLATION OF THIS
7 SECTION THAT THE IMAGE IS PARTIALLY DIGITALLY CREATED OR ALTERED
8 OR THAT THE PRIVATE INTIMATE PARTS WERE DIGITALLY CREATED OR
9 ALTERED.

10 **SECTION 8.** In Colorado Revised Statutes, 18-7-108, **amend**
11 (1)(a) introductory portion; and **add** (2.5) as follows:

12 **18-7-108. Posting a private image for pecuniary gain -**
13 **definitions.** (1) (a) An actor who is eighteen years of age or older
14 commits the offense of posting a private image for pecuniary gain if ~~he~~
15 ~~or she~~ THE ACTOR posts or distributes through social media or any website
16 any photograph, video, or other image displaying the REAL OR SIMULATED
17 private intimate parts of an identified or identifiable person eighteen years
18 of age or older or an image displaying sexual acts of an identified or
19 identifiable person:

20 (2.5) IT IS NOT A DEFENSE TO AN ALLEGED VIOLATION OF THIS
21 SECTION THAT THE IMAGE IS PARTIALLY DIGITALLY CREATED OR ALTERED
22 OR THAT THE PRIVATE INTIMATE PARTS WERE DIGITALLY CREATED OR
23 ALTERED.

24 **SECTION 9.** In Colorado Revised Statutes, 18-7-109, **amend** (8)
25 introductory portion and (8)(b) as follows:

26 **18-7-109. Posting, possession, or exchange of a private image**
27 **by a juvenile - definitions - penalties.** (8) As used in this section,
28 UNLESS THE CONTEXT OTHERWISE REQUIRES:

29 (b) "Sexually explicit image" means any electronic or digital
30 photograph, video, or video depiction of the REAL OR SIMULATED external
31 genitalia or perineum or anus or buttocks or pubes of any person or the
32 REAL OR SIMULATED breast of a female person."

33 Strike pages 9 and 10.

34 Page 11, strike lines 1 and 2.

35 Renumber succeeding section accordingly.

36 Strike "MISCONDUCT" and substitute "PROHIBITED CONTENT AND
37 CONDUCT" on: **Page 3**, line 15; **Page 4**, lines 14, 19, and 26; and **Page 6**,
38 lines 1, 5, 8, and 9.

** ** ** ** **