

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0184.01 Jennifer Berman x3286

SENATE BILL 21-132

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SENATE SPONSORSHIP

Donovan,

HOUSE SPONSORSHIP

(None),

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Senate Committees

State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF DIGITAL COMMUNICATIONS, AND,  
102 IN CONNECTION THEREWITH, CREATING THE DIGITAL  
103 COMMUNICATIONS DIVISION AND THE DIGITAL  
104 COMMUNICATIONS COMMISSION.

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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>.)*

The bill creates the digital communications division (division) and the digital communications commission (commission) within the department of regulatory agencies. On an annual basis and for a

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.

reasonable fee determined by the commission, the division shall register digital communications platforms, which are certain communications-oriented online businesses, such as social media platforms or media-sharing platforms, that conduct business in Colorado or own or operate services that are offered to Colorado residents. A digital communications platform that fails to register with the division commits a class 2 misdemeanor, punishable by a fine of up to \$5,000 for each day that the violation continues.

The division shall investigate and the commission may hold hearings on claims filed with the division alleging that a digital communications platform has allowed a person to engage in one or more unfair or discriminatory digital communications practices on the platform, which practices:

- Include practices that promote hate speech; undermine election integrity; disseminate intentional disinformation, conspiracy theories, or fake news; or authorize, encourage, or carry out violations of users' privacy; and
- May include business, political, or social practices that are conducted in a manner that a person aggrieved by the practices can demonstrate are unfair or discriminatory to the aggrieved person. Such practices, if done in an unfair or discriminatory manner, might include:
  - Practices that target users for purposes of collecting and disseminating users' personal data, including users' sensitive data;
  - Profiling users based on their personal data collected;
  - Selling or authorizing others to use users' personal data to provide location-based advertising or targeted advertising; or
  - Using facial recognition software and other tracking technology.

If a person who files a complaint with the division exhausts all administrative remedies and proceedings, the person may file a civil action in district court alleging an unfair or discriminatory digital communications practice.

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-1-122, **add** (2)(m)  
3 as follows:

4           **24-1-122. Department of regulatory agencies - creation.**

1 (2) The department of regulatory agencies shall consist of the following  
2 divisions:

3 (m) THE DIGITAL COMMUNICATIONS DIVISION, THE HEAD OF WHICH  
4 IS THE DIRECTOR OF THE DIGITAL COMMUNICATIONS DIVISION. THE  
5 DIGITAL COMMUNICATIONS DIVISION, THE DIRECTOR, AND THE DIGITAL  
6 COMMUNICATIONS COMMISSION, CREATED BY PART 10 OF ARTICLE 34 OF  
7 THIS TITLE 24, SHALL EXERCISE THEIR POWERS AND PERFORM THEIR  
8 DUTIES AND FUNCTIONS AS IF TRANSFERRED BY A **TYPE 1** TRANSFER.

9 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **add**  
10 (32)(a)(VI) as follows:

11 **24-34-104. General assembly review of regulatory agencies**  
12 **and functions for repeal, continuation, or reestablishment - legislative**  
13 **declaration - repeal.** (32) (a) The following agencies, functions, or both,  
14 are scheduled for repeal on September 1, 2031:

15 (VI) THE DIGITAL COMMUNICATIONS DIVISION AND THE DIGITAL  
16 COMMUNICATIONS COMMISSION CREATED IN PART 10 OF THIS ARTICLE 34.

17 **SECTION 3.** In Colorado Revised Statutes, **add** part 10 to article  
18 34 of title 24 as follows:

19 PART 10

20 DIGITAL COMMUNICATIONS

21 **24-34-1001. Short title.** THE SHORT TITLE OF THIS PART 10 IS THE  
22 "COLORADO DIGITAL COMMUNICATIONS ACT".

23 **24-34-1002. Definitions.** AS USED IN THIS PART 10, UNLESS THE  
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "COMMISSION" MEANS THE DIGITAL COMMUNICATIONS  
26 COMMISSION CREATED IN SECTION 24-34-1004.

27 (2) "CONTROLLER" MEAN A PERSON THAT, WHETHER ALONE OR

1 JOINTLY WITH OTHERS, DETERMINES THE PURPOSES FOR AND MEANS OF  
2 PROCESSING PERSONAL DATA.

3 (3) "DE-IDENTIFIED DATA" MEANS DATA THAT DO NOT IDENTIFY  
4 AN INDIVIDUAL AND WITH RESPECT TO WHICH THERE IS NO REASONABLE  
5 BASIS TO BELIEVE THAT THE INFORMATION CAN BE USED TO IDENTIFY AN  
6 INDIVIDUAL.

7 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY  
8 AGENCIES CREATED IN SECTION 24-34-101.

9 (5) (a) "DIGITAL COMMUNICATIONS PLATFORM" OR "PLATFORM"  
10 MEANS A COMMUNICATIONS-ORIENTED ONLINE BUSINESS THAT:

11 (I) FACILITATES COMMUNICATIONS BETWEEN USERS AND ALLOWS  
12 USERS TO CREATE AND SHARE CONTENT WITH OTHER USERS ONLINE  
13 ACROSS THE PLATFORM;

14 (II) ALLOWS BUSINESSES TO ADVERTISE TO COLORADO RESIDENTS  
15 USING THE PLATFORM THROUGH THE USE OF GEOLOCATION TECHNOLOGY  
16 ACCESSED FROM USERS' ELECTRONIC DEVICES; AND

17 (III) CONDUCTS BUSINESS IN COLORADO OR OWNS OR OPERATES  
18 SERVICES THAT ARE OFFERED TO COLORADO RESIDENTS AND SATISFIES  
19 ONE OR BOTH OF THE FOLLOWING THRESHOLDS:

20 (A) IS A CONTROLLER OR PROCESSOR OF THE PERSONAL DATA OF  
21 ONE HUNDRED THOUSAND CONSUMERS OR MORE; OR

22 (B) DERIVES REVENUE OR RECEIVES A DISCOUNT ON THE PRICE OF  
23 GOODS OR SERVICES FROM THE SALE OF PERSONAL DATA AND IS A  
24 CONTROLLER OR PROCESSOR OF THE PERSONAL DATA OF TWENTY-FIVE  
25 THOUSAND CONSUMERS OR MORE.

26 (b) "DIGITAL COMMUNICATIONS PLATFORM" INCLUDES SOCIAL  
27 MEDIA PLATFORMS LIKE FACEBOOK, TWITTER, AND INSTAGRAM AND

1 MEDIA-SHARING PLATFORMS LIKE YOUTUBE AND TWITCH.

2 (c) "DIGITAL COMMUNICATIONS PLATFORM" DOES NOT INCLUDE  
3 MARKETPLACE FACILITATORS, AS DEFINED IN SECTION 39-26-102 (5.9), OR  
4 OTHER SERVICE-ORIENTED PLATFORMS LIKE TRANSPORTATION NETWORK  
5 COMPANIES, AS DEFINED IN SECTION 40-10.1-602 (3), OR SHORT-TERM  
6 RENTAL PLATFORMS LIKE AIRBNB.

7 (6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION APPOINTED  
8 PURSUANT TO SECTION 24-34-1003 (1).

9 (7) "DIVISION" MEANS THE DIGITAL COMMUNICATIONS DIVISION  
10 CREATED IN SECTION 24-34-1003.

11 (8) "ELECTRONIC DEVICE" MEANS A DEVICE THAT ENABLES ACCESS  
12 TO OR USE OF ELECTRONIC COMMUNICATIONS OR THE INTERNET.

13 (9) "GEOLOCATION TECHNOLOGY" MEANS TECHNOLOGY SUCH AS  
14 THE GLOBAL POSITIONING SYSTEM OR "GPS" OR AN INTERNET PROTOCOL  
15 ADDRESS OR "IP ADDRESS" USED TO IDENTIFY AND TRACK THE  
16 WHEREABOUTS OF AN ELECTRONIC DEVICE AND TO TRACK THE  
17 MOVEMENTS AND LOCATION OF THE USER FOR PURPOSES OF PROVIDING  
18 LOCATION-BASED SERVICES TO THE USER OR ALLOWING BUSINESSES TO  
19 CONDUCT LOCATION-BASED ADVERTISING OR MARKETING DIRECTED AT  
20 USERS IN A CERTAIN LOCATION.

21 (10) "LOCATION-BASED ADVERTISING" MEANS A FORM OF  
22 ADVERTISING IN WHICH A BUSINESS USES LOCATION-BASED SERVICES TO  
23 PROVIDE LOCATION-SPECIFIC ADVERTISEMENTS TO A USER ON THE USER'S  
24 ELECTRONIC DEVICE.

25 (11) "LOCATION-BASED SERVICES" MEANS SOFTWARE SERVICES  
26 THAT USE AN ELECTRONIC DEVICE'S GEOLOCATION TECHNOLOGY TO  
27 TRACK THE USER'S LOCATION AND PROVIDE THE USER TARGETED

1 INFORMATION OR SERVICES BASED ON THE USER'S LOCATION.

2 (12) "PERSONAL DATA":

3 (a) MEANS INFORMATION THAT IS LINKED OR REASONABLY  
4 LINKABLE TO AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL; AND

5 (b) DOES NOT INCLUDE DE-IDENTIFIED DATA OR PUBLICLY  
6 AVAILABLE INFORMATION.

7 (13) "PROCESSOR" MEANS A PERSON THAT PROCESSES PERSONAL  
8 DATA ON BEHALF OF A CONTROLLER.

9 (14) "PROFILING" MEANS ANY FORM OF AUTOMATED PROCESSING  
10 OF PERSONAL DATA TO EVALUATE, ANALYZE, OR PREDICT PERSONAL  
11 ASPECTS CONCERNING AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL'S  
12 ECONOMIC SITUATION, HEALTH, PERSONAL PREFERENCES, INTERESTS,  
13 RELIABILITY, BEHAVIOR, LOCATION, OR MOVEMENTS.

14 (15) "PUBLICLY AVAILABLE INFORMATION" MEANS INFORMATION  
15 THAT IS LAWFULLY MADE AVAILABLE FROM FEDERAL, STATE, OR LOCAL  
16 GOVERNMENT RECORDS OR GENERALLY ACCESSIBLE OR WIDELY  
17 DISTRIBUTED MEDIA.

18 (16) "SENSITIVE DATA" MEANS:

19 (a) PERSONAL DATA REVEALING RACIAL OR ETHNIC ORIGIN,  
20 RELIGIOUS BELIEFS, A MENTAL OR PHYSICAL HEALTH CONDITION OR  
21 DIAGNOSIS, SEX LIFE OR SEXUAL ORIENTATION, OR CITIZENSHIP OR  
22 CITIZENSHIP STATUS; OR

23 (b) GENETIC OR BIOMETRIC DATA THAT MAY BE PROCESSED FOR  
24 THE PURPOSE OF UNIQUELY IDENTIFYING AN INDIVIDUAL.

25 (17) "TARGETED ADVERTISING":

26 (a) MEANS DISPLAYING TO A CONSUMER AN ADVERTISEMENT THAT  
27 IS SELECTED BASED ON PERSONAL DATA OBTAINED OR INFERRED OVER

1 TIME FROM THE CONSUMER'S ACTIVITIES ACROSS NONAFFILIATED  
2 WEBSITES, APPLICATIONS, OR ONLINE SERVICES TO PREDICT CONSUMER  
3 PREFERENCES OR INTERESTS; AND

4 (b) DOES NOT INCLUDE ADVERTISING TO A CONSUMER IN RESPONSE  
5 TO THE CONSUMER'S REQUEST FOR INFORMATION OR FEEDBACK.

6 (18) "USER" MEANS AN ELECTRONIC DEVICE END USER.

7 **24-34-1003. Digital communications division - director -**  
8 **powers and duties.** (1) THERE IS HEREBY CREATED WITHIN THE  
9 DEPARTMENT THE DIGITAL COMMUNICATIONS DIVISION, THE HEAD OF  
10 WHICH IS THE DIRECTOR OF THE DIVISION. THE EXECUTIVE DIRECTOR OF  
11 THE DEPARTMENT SHALL APPOINT THE DIRECTOR PURSUANT TO SECTION  
12 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

13 (2) THE DIRECTOR SHALL APPOINT INVESTIGATORS AND OTHER  
14 PERSONNEL AS MAY BE NECESSARY TO CARRY OUT THE FUNCTIONS AND  
15 DUTIES OF THE DIVISION. THE DIRECTOR AND STAFF OF THE DIVISION  
16 SHALL RECEIVE, INVESTIGATE, AND MAKE DETERMINATIONS ON CHARGES  
17 ALLEGING UNFAIR AND DISCRIMINATORY DIGITAL COMMUNICATIONS  
18 PRACTICES IN VIOLATION OF THIS PART 10.

19 **24-34-1004. Digital communications commission - membership**  
20 **- terms of office - compensation.** (1) (a) THERE IS HEREBY CREATED  
21 WITHIN THE DIVISION THE DIGITAL COMMUNICATIONS COMMISSION.

22 (b) THE COMMISSION CONSISTS OF THE FOLLOWING SEVEN  
23 MEMBERS:

24 (I) THE CHIEF INFORMATION OFFICER OF THE OFFICE OF  
25 INFORMATION TECHNOLOGY, APPOINTED PURSUANT TO SECTION  
26 24-37.5-103, OR THE CHIEF INFORMATION OFFICER'S DESIGNEE;

27 (II) THE ATTORNEY GENERAL, ELECTED PURSUANT TO SECTION 1

1 OF ARTICLE IV OF THE STATE CONSTITUTION, OR THE ATTORNEY  
2 GENERAL'S DESIGNEE;

3 (III) FIVE MEMBERS WHOM THE GOVERNOR APPOINTS, WITH THE  
4 CONSENT OF THE SENATE IN ACCORDANCE WITH SECTION 6 OF ARTICLE IV  
5 OF THE STATE CONSTITUTION, AS FOLLOWS:

6 (A) TWO MEMBERS REPRESENTING THE BUSINESS COMMUNITY  
7 WHO DO NOT HAVE ANY DIRECT FINANCIAL AFFILIATION WITH A DIGITAL  
8 COMMUNICATIONS PLATFORM, WITH AT LEAST ONE MEMBER  
9 REPRESENTING A SMALL BUSINESS WITH FEWER THAN FIFTY EMPLOYEES;  
10 AND

11 (B) THREE MEMBERS FROM THE PUBLIC AT LARGE WHO DO NOT  
12 HAVE ANY DIRECT FINANCIAL AFFILIATION WITH A DIGITAL  
13 COMMUNICATIONS PLATFORM.

14 (c) (I) IN APPOINTING MEMBERS OF THE COMMISSION PURSUANT TO  
15 SUBSECTION (1)(b)(III) OF THIS SECTION, THE GOVERNOR SHALL STRIVE TO  
16 PROVIDE SOCIOECONOMIC, POLITICAL, AND GEOGRAPHIC DIVERSITY IN THE  
17 COMMISSION'S MEMBERSHIP, ENSURING THAT AT LEAST TWO OF THE  
18 APPOINTEES ARE FROM THE WESTERN SLOPE OR THE EASTERN PLAINS.

19 (II) THE APPOINTED MEMBERS OF THE COMMISSION SERVE  
20 FOUR-YEAR TERMS, EXCEPT AS PROVIDED IN SUBSECTION (1)(c)(III) OF  
21 THIS SECTION. APPOINTED MEMBERS MAY SERVE TWO TERMS ON THE  
22 COMMISSION, WHETHER CONSECUTIVE OR NONCONSECUTIVE.

23 (III) OF THE MEMBERS THAT THE GOVERNOR INITIALLY APPOINTS  
24 TO THE COMMISSION, ONE MEMBER APPOINTED PURSUANT TO SUBSECTION  
25 (1)(b)(III)(A) OF THIS SECTION AND ONE MEMBER APPOINTED PURSUANT  
26 TO SUBSECTION (1)(b)(III)(B) OF THIS SECTION SHALL SERVE AN INITIAL  
27 TWO-YEAR TERM AND A SUBSEQUENT FOUR-YEAR TERM.



1           (2) THE GOVERNOR SHALL FILL VACANCIES ON THE COMMISSION  
2 BY APPOINTMENT, WITH THE CONSENT OF THE SENATE IN ACCORDANCE  
3 WITH SUBSECTION (1)(b)(III) OF THIS SECTION, AND THE TERM OF A  
4 MEMBER OF THE COMMISSION APPOINTED TO FILL A VACANCY IS FOR THE  
5 UNEXPIRED PORTION OF THE TERM FOR WHICH THE MEMBER IS APPOINTED.

6           (3) THE GOVERNOR MAY REMOVE ANY APPOINTED MEMBER OF THE  
7 COMMISSION FROM OFFICE FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT  
8 OF DUTY.

9           (4) APPOINTED MEMBERS OF THE COMMISSION SHALL RECEIVE A  
10 PER DIEM ALLOWANCE AND SHALL BE REIMBURSED FOR ACTUAL AND  
11 NECESSARY EXPENSES THAT THEY INCUR WHILE ON OFFICIAL COMMISSION  
12 BUSINESS, AS PROVIDED IN SECTION 12-20-103 (6).

13           (5) AT THEIR FIRST MEETING, THE MEMBERS OF THE COMMISSION  
14 SHALL APPOINT A CHAIR AND VICE-CHAIR. THE COMMISSION MAY ADOPT,  
15 AMEND, OR RESCIND RULES FOR GOVERNING ITS MEETINGS. FOUR  
16 MEMBERS CONSTITUTES A QUORUM FOR PURPOSES OF CONDUCTING THE  
17 BUSINESS OF THE COMMISSION.

18           (6) THE COMMISSION MAY USE DIVISION STAFF TO ASSIST THE  
19 COMMISSION IN ITS WORK.

20           **24-34-1005. Powers and duties of commission - rules.** (1) THE  
21 COMMISSION HAS THE FOLLOWING POWERS AND DUTIES:

22           (a) TO ADOPT, PUBLISH, AMEND, AND RESCIND RULES, IN  
23 ACCORDANCE WITH SECTION 24-4-103, THAT ARE REASONABLE AND  
24 NECESSARY FOR THE IMPLEMENTATION OF THIS PART 10;

25           (b) TO ADOPT RULES TO ESTABLISH REASONABLE FEES FOR THE  
26 ANNUAL REGISTRATION OF DIGITAL COMMUNICATIONS PLATFORMS  
27 PURSUANT TO SECTION 24-34-1006 (1)(a);

1 (c) TO INVESTIGATE AND STUDY THE EXISTENCE, CHARACTER,  
2 CAUSES, AND EXTENT OF UNFAIR AND DISCRIMINATORY DIGITAL  
3 COMMUNICATIONS PRACTICES AND TO FORMULATE PLANS FOR THE  
4 ELIMINATION OF THOSE PRACTICES BY EDUCATIONAL OR OTHER MEANS;

5 (d) TO HOLD HEARINGS IN ACCORDANCE WITH SUBSECTION (2) OF  
6 THIS SECTION UPON ANY COMPLAINT ISSUED AGAINST A RESPONDENT  
7 PURSUANT TO SECTION 24-34-1007 (4); TO SUBPOENA WITNESSES AND  
8 COMPEL THEIR ATTENDANCE; TO ADMINISTER OATHS AND TAKE THE  
9 TESTIMONY OF ANY PERSON UNDER OATH; AND TO COMPEL A RESPONDENT  
10 TO PRODUCE FOR EXAMINATION ANY BOOKS, PAPERS, OR RECORDS,  
11 WHETHER IN PAPER OR ELECTRONIC FORM, RELATING TO ANY MATTER  
12 THAT IS THE SUBJECT OF THE COMPLAINT AGAINST THE RESPONDENT;

13 (e) TO ISSUE PUBLICATIONS AND REPORTS OF INVESTIGATIONS AND  
14 RESEARCH THAT IN THE COMMISSION'S JUDGMENT WILL EDUCATE THE  
15 PUBLIC ON, AND PROVIDE RECOMMENDATIONS ON HOW TO MINIMIZE  
16 ADVERSE EFFECTS ARISING FROM, THE USE OF DIGITAL COMMUNICATIONS  
17 PLATFORMS IN THE FOLLOWING PRACTICES:

18 (I) UNFAIR AND DISCRIMINATORY DIGITAL COMMUNICATIONS  
19 PRACTICES SUCH AS PRACTICES THAT PROMOTE HATE SPEECH; UNDERMINE  
20 ELECTION INTEGRITY; DISSEMINATE INTENTIONAL DISINFORMATION,  
21 CONSPIRACY THEORIES, OR FAKE NEWS; OR AUTHORIZE, ENCOURAGE, OR  
22 CARRY OUT VIOLATIONS OF USERS' PRIVACY;

23 (II) BUSINESS, POLITICAL, AND SOCIAL PRACTICES THAT TARGET  
24 USERS FOR PURPOSES OF COLLECTING AND DISSEMINATING USERS'  
25 PERSONAL DATA, INCLUDING USERS' SENSITIVE DATA; PROFILING USERS  
26 BASED ON THEIR PERSONAL DATA COLLECTED; OR SELLING OR  
27 AUTHORIZING OTHERS TO USE USERS' PERSONAL DATA TO PROVIDE

1 LOCATION-BASED ADVERTISING OR TARGETED ADVERTISING; AND  
2 (III) THE USE OF FACIAL RECOGNITION SOFTWARE AND OTHER  
3 TRACKING TECHNOLOGY;  
4 (f) TO RECOMMEND POLICIES REGARDING MEASURES TO ENSURE  
5 FAIR AND NONDISCRIMINATORY DIGITAL PLATFORM PRACTICES TO THE  
6 GOVERNOR AND SUBMIT RECOMMENDATIONS TO PERSONS IN THE PRIVATE  
7 SECTOR TO EFFECTUATE THE POLICIES;  
8 (g) TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY  
9 REGARDING PROPOSED LEGISLATION TO COMBAT THE UNFAIR AND  
10 DISCRIMINATORY DIGITAL COMMUNICATIONS PRACTICES LISTED IN  
11 SUBSECTION (1)(e)(I) OF THIS SECTION OR MINIMIZE OTHER ADVERSE  
12 EFFECTS ARISING FROM THE USE OF DIGITAL COMMUNICATIONS PLATFORMS  
13 WITH REGARD TO THE PRACTICES LISTED IN SUBSECTIONS (1)(e)(II) AND  
14 (1)(e)(III) OF THIS SECTION;  
15 (h) WITHIN THE LIMITS OF ANY APPROPRIATIONS MADE FOR THE  
16 COMMISSION'S OPERATIONS, TO COOPERATE WITH AGENCIES AND  
17 ORGANIZATIONS, BOTH PUBLIC AND PRIVATE, WHOSE PURPOSES ARE  
18 CONSISTENT WITH THE COMMISSION'S PURPOSES SET FORTH IN THIS PART  
19 10 TO PLAN AND CONDUCT EDUCATIONAL PROGRAMMING; AND  
20 (i) TO ADOPT AN OFFICIAL SEAL.  
21 (2) THE COMMISSION MAY HOLD A HEARING OR MAY ASSIGN A  
22 MEMBER OF THE COMMISSION OR ADMINISTRATIVE LAW JUDGE, APPOINTED  
23 PURSUANT TO PART 10 OF ARTICLE 30 OF THIS TITLE 24, TO PRESIDE OVER  
24 THE HEARING, SUBJECT TO APPROPRIATIONS FOR ADMINISTRATIVE LAW  
25 JUDGES MADE TO THE DEPARTMENT OF PERSONNEL. IF AN ADMINISTRATIVE  
26 LAW JUDGE IS NOT AVAILABLE WITHIN THE TIME LIMITS FOR HOLDING THE  
27 HEARING PURSUANT TO SECTION 24-34-1007 (4)(b), THE GOVERNOR, UPON

1 REQUEST OF THE COMMISSION, SHALL APPOINT AN ADMINISTRATIVE LAW  
2 JUDGE TO BE PAID OUT OF MONEY APPROPRIATED TO THE DIVISION. IF A  
3 WITNESS FAILS OR REFUSES TO OBEY A SUBPOENA ISSUED BY THE  
4 COMMISSION, THE COMMISSION MAY PETITION THE DISTRICT COURT WITH  
5 JURISDICTION FOR THE ISSUANCE OF A SUBPOENA. A REFUSAL TO OBEY A  
6 SUBPOENA ISSUED BY THE DISTRICT COURT IS PUNISHABLE AS CONTEMPT.

7 (3) IN EXERCISING THE POWERS AND PERFORMING THE DUTIES AND  
8 FUNCTIONS UNDER THIS PART 10, THE COMMISSION, THE DIVISION, AND  
9 THE DIRECTOR SHALL PRESUME THAT THE CONDUCT OF ANY RESPONDENT  
10 IS NOT UNFAIR OR DISCRIMINATORY UNTIL PROVEN OTHERWISE.

11 **24-34-1006. Registration required - penalty - unfair or**  
12 **discriminatory digital communications practices prohibited.**

13 (1) (a) ON AND AFTER JANUARY 1, 2022, A DIGITAL COMMUNICATIONS  
14 PLATFORM SHALL ANNUALLY REGISTER WITH THE DIVISION, IN THE FORM  
15 AND MANNER DETERMINED BY THE DIVISION AND BY PAYMENT OF A FEE  
16 IN AN AMOUNT THAT THE COMMISSION DETERMINES PURSUANT TO  
17 SECTION 24-34-1005 (1)(b) WILL COVER THE DIVISION'S AND  
18 COMMISSION'S DIRECT AND INDIRECT COSTS IN ENFORCING THIS PART 10.

19 (b) A DIGITAL COMMUNICATIONS PLATFORM THAT DOES NOT  
20 REGISTER IN ACCORDANCE WITH THIS SUBSECTION (1) COMMITS A CLASS  
21 2 MISDEMEANOR PUNISHABLE BY A FINE OF UP TO FIVE THOUSAND  
22 DOLLARS FOR EACH DAY THAT THE VIOLATION CONTINUES.

23 (2) (a) IT IS AN UNFAIR OR DISCRIMINATORY DIGITAL  
24 COMMUNICATIONS PRACTICE FOR A DIGITAL COMMUNICATIONS PLATFORM  
25 TO ALLOW ANY OF THE FOLLOWING PRACTICES ON ITS PLATFORM:

26 (I) PRACTICES THAT PROMOTE HATE SPEECH;

27 (II) PRACTICES THAT UNDERMINE ELECTION INTEGRITY;

1 (III) PRACTICES THAT DISSEMINATE INTENTIONAL  
2 DISINFORMATION, CONSPIRACY THEORIES, OR FAKE NEWS; AND

3 (IV) PRACTICES THAT AUTHORIZE, ENCOURAGE, OR CARRY OUT  
4 VIOLATIONS OF USERS' PRIVACY.

5 (b) IT IS AN UNFAIR OR DISCRIMINATORY DIGITAL  
6 COMMUNICATIONS PRACTICE FOR A DIGITAL COMMUNICATIONS PLATFORM  
7 TO ALLOW ANY OF THE FOLLOWING PRACTICES ON ITS PLATFORM IF THE  
8 PRACTICE IS CONDUCTED IN A MANNER THAT A PERSON AGGRIEVED BY THE  
9 PRACTICE CAN DEMONSTRATE THAT THE PRACTICE IS UNFAIR OR  
10 DISCRIMINATORY TO THE AGGRIEVED PERSON:

11 (I) TARGETING USERS FOR PURPOSES OF COLLECTING AND  
12 DISSEMINATING USERS' PERSONAL DATA, INCLUDING SENSITIVE DATA;

13 (II) PROFILING USERS BASED ON THEIR PERSONAL DATA  
14 COLLECTED;

15 (III) SELLING OR AUTHORIZING OTHERS TO USE USERS' PERSONAL  
16 DATA TO PROVIDE LOCATION-BASED ADVERTISING OR TARGETED  
17 ADVERTISING; AND

18 (IV) USING FACIAL RECOGNITION SOFTWARE OR OTHER TRACKING  
19 TECHNOLOGY.

20 **24-34-1007. Charge - complaint - hearing - procedure -**  
21 **exhaustion of administrative remedies - judicial review.** (1) (a) A  
22 PERSON CLAIMING TO BE AGGRIEVED BY AN UNFAIR OR DISCRIMINATORY  
23 DIGITAL COMMUNICATIONS PRACTICE MAY, INDEPENDENTLY OR THROUGH  
24 AN ATTORNEY, MAKE, SIGN, AND FILE WITH THE DIVISION A VERIFIED  
25 WRITTEN CHARGE STATING THE NAME AND ADDRESS OF THE RESPONDENT  
26 ALLEGED TO HAVE COMMITTED THE UNFAIR OR DISCRIMINATORY DIGITAL  
27 COMMUNICATIONS PRACTICE, SETTING FORTH THE PARTICULARS OF THE

1 ALLEGED UNFAIR OR DISCRIMINATORY DIGITAL COMMUNICATIONS  
2 PRACTICE, AND INCLUDING ANY OTHER INFORMATION THAT THE DIVISION  
3 REQUIRES.

4 (b) IN CASES WHERE THE COMMISSION, A MEMBER OF THE  
5 COMMISSION, OR THE ATTORNEY GENERAL DETERMINES THAT AN ALLEGED  
6 UNFAIR OR DISCRIMINATORY DIGITAL COMMUNICATIONS PRACTICE  
7 IMPOSES A SIGNIFICANT SOCIETAL OR COMMUNITY IMPACT, THE  
8 COMMISSION, A MEMBER OF THE COMMISSION, OR THE ATTORNEY GENERAL  
9 MAY MAKE, SIGN, AND FILE A CHARGE ALLEGING AN UNFAIR OR  
10 DISCRIMINATORY DIGITAL COMMUNICATIONS PRACTICE. THE CHARGE  
11 SHALL BE FILED IN THE SAME MANNER AND SHALL CONTAIN THE SAME  
12 INFORMATION REQUIRED FOR A CHARGE FILED BY A PERSON PURSUANT TO  
13 SUBSECTION (1)(a) OF THIS SECTION. THE REMEDY AVAILABLE FOR AN  
14 UNFAIR OR DISCRIMINATORY DIGITAL COMMUNICATIONS PRACTICE  
15 ALLEGED BY THE COMMISSION, A MEMBER OF THE COMMISSION, OR THE  
16 ATTORNEY GENERAL PURSUANT TO THIS SUBSECTION (1)(b) IS LIMITED TO  
17 EQUITABLE RELIEF TO ELIMINATE THE UNFAIR OR DISCRIMINATORY  
18 DIGITAL COMMUNICATIONS PRACTICE.

19 (2) ONCE THE DIVISION RECEIVES A CHARGE FILED PURSUANT TO  
20 SUBSECTION (1) OF THIS SECTION:

21 (a) THE DIVISION SHALL NOTIFY THE RESPONDENT OF THE CHARGE  
22 FILED AGAINST THE RESPONDENT; AND

23 (b) THE DIRECTOR, WITH THE ASSISTANCE OF DIVISION STAFF,  
24 SHALL PROMPTLY INVESTIGATE THE CHARGE. THE DIRECTOR MAY  
25 SUBPOENA WITNESSES AND COMPEL THE TESTIMONY OF WITNESSES AND  
26 THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS, WHETHER IN PAPER  
27 OR ELECTRONIC FORM, IF THE TESTIMONY, BOOKS, PAPERS, OR RECORDS

1 SOUGHT ARE LIMITED TO MATTERS DIRECTLY RELATED TO THE CHARGE. A  
2 SUBPOENA ISSUED PURSUANT TO THIS SUBSECTION (2)(b) IS ENFORCEABLE  
3 IN THE DISTRICT COURT FOR THE DISTRICT IN WHICH THE ALLEGED UNFAIR  
4 OR DISCRIMINATORY DIGITAL COMMUNICATIONS PRACTICE OCCURRED AND  
5 SHALL BE ISSUED ONLY IF THE PERSON TO BE SUBPOENAED HAS REFUSED  
6 OR FAILED, AFTER A PROPER REQUEST FROM THE DIRECTOR, TO PROVIDE  
7 VOLUNTARILY TO THE DIRECTOR THE INFORMATION SOUGHT BY THE  
8 SUBPOENA.

9 (3) (a) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL  
10 DETERMINE, AS PROMPTLY AS POSSIBLE UPON INVESTIGATION OF THE  
11 MATTER, IF PROBABLE CAUSE EXISTS FOR A CHARGE ALLEGED.

12 (b) IF THE DIRECTOR OR THE DIRECTOR'S DESIGNEE DETERMINES  
13 THAT PROBABLE CAUSE DOES NOT EXIST, THE DIRECTOR OR THE  
14 DIRECTOR'S DESIGNEE SHALL:

15 (I) DISMISS THE CHARGE AND NOTIFY THE PERSON WHO FILED THE  
16 CHARGE AND THE RESPONDENT OF THE DISMISSAL. THE NOTICE MUST  
17 INCLUDE AN ADVISEMENT STATING THAT:

18 (A) THE CHARGING PARTY MAY APPEAL THE DISMISSAL BY FILING  
19 AN APPEAL WITH THE COMMISSION WITHIN TEN DAYS AFTER THE DATE  
20 THAT THE NOTIFICATION WAS MAILED;

21 (B) IF THE CHARGING PARTY WISHES TO FILE A CIVIL ACTION IN  
22 DISTRICT COURT BASED ON THE ALLEGED UNFAIR OR DISCRIMINATORY  
23 DIGITAL COMMUNICATIONS PRACTICE, THE CHARGING PARTY MUST DO SO  
24 WITHIN NINETY DAYS AFTER THE NOTICE WAS MAILED IF THE CHARGING  
25 PARTY DOES NOT APPEAL THE DECISION OR WITHIN NINETY DAYS AFTER  
26 THE COMMISSION NOTIFIES THE PARTIES THAT IT HAS DISMISSED AN  
27 APPEAL OF THE MATTER; AND

1 (C) IF THE CHARGING PARTY DOES NOT FILE AN ACTION WITHIN  
2 THE TIME LIMITS SET FORTH IN SUBSECTION (3)(b)(I)(B) OF THIS SECTION,  
3 THE ACTION IS BARRED AND A DISTRICT COURT WILL NOT HAVE  
4 JURISDICTION TO HEAR THE MATTER; AND

5 (II) NOT DISCLOSE TO THIRD PARTIES THE FACT THAT THE CHARGE  
6 WAS FILED OR THE INFORMATION GATHERED DURING THE INVESTIGATION.

7 (c) IF THE DIRECTOR OR THE DIRECTOR'S DESIGNEE DETERMINES  
8 THAT PROBABLE CAUSE EXISTS, THE DIRECTOR OR DIRECTOR'S DESIGNEE  
9 SHALL SERVE THE RESPONDENT WITH WRITTEN NOTICE STATING WITH  
10 SPECIFICITY THE LEGAL AUTHORITY AND JURISDICTION OF THE  
11 COMMISSION AND THE MATTERS OF FACT AND LAW ASSERTED AND SHALL  
12 NOTIFY THE COMMISSION OF ITS DETERMINATION.

13 (4) (a) UPON RECEIVING A DETERMINATION FROM THE DIRECTOR  
14 OR THE DIRECTOR'S DESIGNEE THAT PROBABLE CAUSE EXISTS, THE  
15 COMMISSION, IF IT DETERMINES THAT THE CIRCUMSTANCES WARRANT,  
16 SHALL ISSUE AND CAUSE TO BE SERVED IN ACCORDANCE WITH SECTION  
17 24-4-105 (2) A WRITTEN NOTICE AND COMPLAINT REQUIRING THE  
18 RESPONDENT TO ANSWER THE CHARGES AT A FORMAL HEARING BEFORE  
19 THE COMMISSION, A MEMBER OF THE COMMISSION, OR AN ADMINISTRATIVE  
20 LAW JUDGE. THE NOTICE AND COMPLAINT MUST STATE THE TIME, PLACE,  
21 AND NATURE OF THE HEARING, THE LEGAL AUTHORITY AND JURISDICTION  
22 UNDER WHICH IT IS TO BE HELD, AND THE MATTERS OF FACT AND LAW  
23 ASSERTED.

24 (b) THE COMMISSION, A MEMBER OF THE COMMISSION, OR AN  
25 ADMINISTRATIVE LAW JUDGE, AS APPLICABLE, SHALL COMMENCE A  
26 HEARING WITHIN ONE HUNDRED TWENTY DAYS AFTER SERVICE OF THE  
27 WRITTEN NOTICE AND COMPLAINT AND SHALL HOLD THE HEARING IN



1 ACCORDANCE WITH SECTION 24-4-105.

2 (5) IF THE ADJUDICATOR AT THE HEARING DETERMINES THAT THE  
3 RESPONDENT ENGAGED IN AN UNFAIR OR DISCRIMINATORY DIGITAL  
4 COMMUNICATIONS PRACTICE, THE COMMISSION MAY ISSUE AND CAUSE TO  
5 BE SERVED ON THE RESPONDENT AN ORDER REQUIRING THE RESPONDENT  
6 TO CEASE AND DESIST FROM THE PRACTICE AND TO TAKE ACTION THAT THE  
7 COMMISSION ORDERS.

8 (6) (a) IF WRITTEN NOTICE THAT A FORMAL HEARING WILL BE HELD  
9 IS NOT SERVED WITHIN TWO HUNDRED SEVENTY DAYS AFTER THE FILING  
10 OF THE CHARGE OR IF THE HEARING IS NOT COMMENCED WITHIN THE  
11 ONE-HUNDRED-TWENTY-DAY PERIOD REQUIRED BY SUBSECTION (4)(b) OF  
12 THIS SECTION, THE COMMISSION'S JURISDICTION OVER THE COMPLAINT  
13 CEASES AND THE COMPLAINANT MAY SEEK RELIEF AGAINST THE  
14 RESPONDENT BY FILING A CIVIL ACTION IN THE DISTRICT COURT FOR THE  
15 DISTRICT IN WHICH THE ALLEGED UNFAIR OR DISCRIMINATORY DIGITAL  
16 COMMUNICATIONS PRACTICE OCCURRED. THE COMPLAINANT MUST FILE A  
17 CIVIL ACTION WITHIN NINETY DAYS AFTER THE DATE UPON WHICH THE  
18 COMMISSION'S JURISDICTION CEASED. IF THE COMPLAINANT DOES NOT FILE  
19 A CIVIL ACTION WITHIN THE NINETY-DAY PERIOD, THE ACTION IS BARRED  
20 AND A DISTRICT COURT DOES NOT HAVE JURISDICTION TO HEAR THE  
21 MATTER.

22 (b) A PARTY MAY REQUEST AN EXTENSION OF ANY OF THE TIME  
23 PERIODS SET FORTH IN THIS SUBSECTION (6) AND THE COMMISSION, A  
24 MEMBER OF THE COMMISSION, OR AN ADMINISTRATIVE LAW JUDGE  
25 HEARING THE MATTER MAY GRANT THE EXTENSION FOR GOOD CAUSE  
26 SHOWN, BUT THE PERIOD OF ALL SUCH EXTENSIONS IN A MATTER MUST NOT  
27 EXCEED NINETY DAYS GRANTED TO THE COMPLAINANT OR NINETY DAYS

1 GRANTED TO THE RESPONDENT OR, IF THERE ARE MULTIPLE PARTIES, ONE  
2 HUNDRED EIGHTY DAYS TOTAL.

3 (7) ANY MEMBER OF THE COMMISSION AND ANY PERSON  
4 PARTICIPATING IN GOOD FAITH IN MAKING A COMPLAINT OR REPORT OR IN  
5 ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING AUTHORIZED BY  
6 THIS PART 10 IS IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT  
7 AGAINST THE PERSON FOR ACTS OCCURRING WHILE ACTING IN THE  
8 PERSON'S CAPACITY AS A MEMBER OF THE COMMISSION OR AS A  
9 PARTICIPANT IF THE PERSON WAS ACTING IN GOOD FAITH WITHIN THE  
10 SCOPE OF THE PERSON'S RESPECTIVE CAPACITY, MADE A REASONABLE  
11 EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH THE PERSON  
12 ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN  
13 WAS WARRANTED BY THE FACTS.

14 (8) (a) A PERSON SHALL NOT FILE A CIVIL ACTION IN DISTRICT  
15 COURT IN THIS STATE ALLEGING AN UNFAIR OR DISCRIMINATORY DIGITAL  
16 COMMUNICATIONS PRACTICE PURSUANT TO THIS PART 10 WITHOUT  
17 HAVING FIRST EXHAUSTED THE PROCEEDINGS AND REMEDIES AVAILABLE  
18 UNDER THIS PART 10, UNLESS THE PERSON SHOWS BY CLEAR AND  
19 CONVINCING EVIDENCE, IN AN ACTION FILED IN THE APPROPRIATE DISTRICT  
20 COURT, THAT THE PERSON HAS HEALTH ISSUES OF SUCH A NATURE THAT  
21 FIRST PURSUING ADMINISTRATIVE REMEDIES WOULD NOT PROVIDE TIMELY  
22 AND REASONABLE RELIEF AND WOULD CAUSE IRREPARABLE HARM.

23 (b) (I) A PERSON WHO HAS FILED CHARGES PURSUANT TO  
24 SUBSECTION (1) OF THIS SECTION MAY FILE A WRITTEN REQUEST THAT THE  
25 DIVISION ISSUE A WRITTEN NOTICE OF RIGHT TO SUE AT ANY TIME BEFORE  
26 SERVICE OF A NOTICE AND COMPLAINT HAS BEEN SERVED PURSUANT TO  
27 SUBSECTION (4) OF THIS SECTION. THE DIVISION SHALL PROMPTLY GRANT

1 THE REQUEST IF THE REQUEST IS MADE AT LEAST ONE HUNDRED EIGHTY  
2 DAYS FOLLOWING THE FILING OF THE CHARGE. IF THE PERSON WHO FILED  
3 CHARGES MAKES THE REQUEST LESS THAN ONE HUNDRED EIGHTY DAYS  
4 AFTER FILING THE CHARGES, THE DIVISION SHALL GRANT THE REQUEST IF  
5 THE DIVISION DETERMINES THAT THE INVESTIGATION OF THE CHARGES  
6 WILL NOT BE COMPLETED WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE  
7 FILING OF THE CHARGES.

8 (II) A NOTICE OF RIGHT TO SUE CONSTITUTES A FINAL AGENCY  
9 ACTION AND EXHAUSTION OF ADMINISTRATIVE REMEDIES AND  
10 PROCEEDINGS PURSUANT TO THIS PART 10.

11 (9) A COMPLAINANT OR RESPONDENT CLAIMING TO BE AGGRIEVED  
12 BY A FINAL AGENCY ACTION SUCH AS A FINAL ORDER OF THE COMMISSION  
13 OR A REFUSAL TO ISSUE A FINAL ORDER MAY OBTAIN JUDICIAL REVIEW OF  
14 THE COMMISSION'S FINAL AGENCY ACTION PURSUANT TO PROCEEDINGS  
15 BROUGHT IN THE COURT OF APPEALS IN ACCORDANCE WITH SECTION  
16 24-4-106.

17 **24-34-1008. Division and commission subject to termination**  
18 **- repeal of part.** THIS PART 10 IS REPEALED, EFFECTIVE SEPTEMBER 1,  
19 2031. BEFORE THE REPEAL, THIS PART 10 IS SCHEDULED FOR REVIEW IN  
20 ACCORDANCE WITH SECTION 24-34-104.

21 **SECTION 4. Act subject to petition - effective date -**  
22 **applicability.** (1) This act takes effect January 1, 2022; except that, if a  
23 referendum petition is filed pursuant to section 1 (3) of article V of the  
24 state constitution against this act or an item, section, or part of this act  
25 within the ninety-day period after final adjournment of the general  
26 assembly, then the act, item, section, or part will not take effect unless  
27 approved by the people at the general election to be held in November

1 2022 and, in such case, will take effect on the date of the official  
2 declaration of the vote thereon by the governor.

3 (2) This act applies to conduct occurring on or after the applicable  
4 effective date of this act.