

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0730.01 Conrad Imel x2313

SENATE BILL 24-011

SENATE SPONSORSHIP

Winter F.,

HOUSE SPONSORSHIP

Duran and Willford,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO INCREASE PROTECTION FROM HARM
102 CAUSED THROUGH THE USE OF TECHNOLOGY.

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 requires an online dating service (service) to have a safety policy that includes certain elements. It is a deceptive trade practice if a service does not have a compliant safety policy. A safety policy must include:

- Information about whether and under what circumstances the service conducts background screenings of members

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.

who use the service (members) and whether the service excludes from membership individuals with past criminal convictions;

- A definition of misconduct used by the online dating service;
- A description of whether and when the service suspends a member profile or bars a member from the service as a result of reports of misconduct committed by the member;
- Guidelines for reporting misconduct committed by a member to the service and information about how those reports are shared with other members;
- A notice that engaging in sexual conduct with another person without the other person's consent violates the safety policy and criminal laws, and may result in criminal or civil liability;
- Information about resources available for members who experience misconduct committed by another member; and
- Measures taken by the platform that are reasonably designed to promote safer online and in-person dating experiences for members.

A service shall post its safety policy on the front page of its website or mobile application, include the policy in its dating service contract, and file its safety policy with the attorney general's office.

A service shall annually file a report with the attorney general's office that includes information about reports of misconduct committed by members that the service has received and actions taken by the service against members who are the subject of those reports.

If a member who brings an enforcement action against a service for the deceptive trade practice of not having an adequate safety policy was injured by another member and a report against the other member was filed with the service prior to the incident, the service is liable for the amount of the member's actual damages or, if the service received more than one report about the other member and fails to take timely remedial action against the other member, 3 times the amount of the member's actual damages.

The bill creates a civil cause of action for a person who was tracked by means of a tracking device or tracking application to bring a claim against the actor who installed a tracking device on the person's property or who caused a tracking device or tracking application to track the person or person's property without the person's consent.

Existing law prohibits posting a private image for harassment; posting a private image for pecuniary gain; and posting, possession, or exchange of a private image by a juvenile. The bill adds to those offenses posting a computer generated or digitally altered sexual image that:

- Depicts an actual person engaging in speech or conduct

that the person did not engage in and is so realistic that a reasonable person would believe it depicts the actual conduct of the depicted person;

- Was produced by technological means; and
- Realistically depicts the private intimate parts of another person or artificially generated private intimate parts presented as those of the depicted person or displays the depicted person in a sexual act.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 6-1-731.5 as
3 follows:

4 **6-1-731.5. Online dating services - deceptive trade practice -**
5 **policy required - report - definitions.** (1) AS USED IN THIS SECTION,
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "MEMBER" HAS THE SAME MEANING SET FORTH IN SECTION
8 6-1-731.

9 (b) "ONLINE DATING SERVICE" HAS THE SAME MEANING SET FORTH
10 IN SECTION 6-1-731.

11 (c) "ONLINE DATING SERVICE CONTRACT" HAS THE SAME MEANING
12 SET FORTH IN SECTION 6-1-731.

13 (d) "REMEDIAL ACTION" MEANS SUSPENDING THE MEMBER'S
14 PROFILE FROM THE SERVICE, BARRING THE MEMBER FROM THE SERVICE, OR
15 PROVIDING ACTUAL NOTICE THAT IT RECEIVED A REPORT OF MISCONDUCT
16 TO OTHER MEMBERS WHO HAVE HAD CONTACT ON THE SERVICE WITH THE
17 MEMBER WHO WAS THE SUBJECT OF THE REPORTS.

18 (e) "SAFETY POLICY" MEANS AN ONLINE DATING SERVICE'S SAFETY
19 POLICY REQUIRED IN SUBSECTION (2) OF THIS SECTION.

20 (2) NO LATER THAN NOVEMBER 1, 2024, AN ONLINE DATING
21 SERVICE SHALL ADOPT A SAFETY POLICY THAT COMPLIES WITH THIS

1 SUBSECTION (2). THE ONLINE DATING SERVICE SHALL MAKE THE SAFETY
2 POLICY EFFECTIVE ON OR BEFORE JANUARY 1, 2025. THE SAFETY POLICY
3 MUST INCLUDE THE FOLLOWING:

4 (a) A STATEMENT OF WHETHER AND UNDER WHAT CIRCUMSTANCES
5 THE ONLINE DATING SERVICE CONDUCTS A CRIMINAL BACKGROUND
6 SCREENING OF MEMBERS AND WHETHER THE ONLINE DATING SERVICE
7 EXCLUDES AS A MEMBER A PERSON WHO HAS A CRIMINAL CONVICTION
8 AND, IF SO, WHICH CRIMINAL CONVICTIONS RESULT IN EXCLUSION;

9 (b) A DEFINITION OF MISCONDUCT USED BY THE ONLINE DATING
10 SERVICE, WHICH MUST INCLUDE ENGAGING IN SEXUAL CONDUCT WITH
11 ANOTHER PERSON WITHOUT THE OTHER PERSON'S CONSENT;

12 (c) A DESCRIPTION OF WHETHER AND WHEN THE ONLINE DATING
13 SERVICE SUSPENDS A MEMBER'S PROFILE FROM THE SERVICE AS A RESULT
14 OF REPORTS OF MISCONDUCT COMMITTED BY THE MEMBER RECEIVED BY
15 THE ONLINE DATING SERVICE AND THE CIRCUMSTANCES UNDER WHICH THE
16 ONLINE DATING SERVICE BARS A MEMBER FROM THE ONLINE DATING
17 SERVICE AS A RESULT OF RECEIVED REPORTS;

18 (d) A DESCRIPTION OF WHETHER AND WHEN THE ONLINE DATING
19 SERVICE, AFTER RECEIVING A REPORT OF MISCONDUCT COMMITTED BY A
20 MEMBER, PROVIDES ACTUAL NOTICE THAT IT RECEIVED THE REPORT TO
21 OTHER MEMBERS WHO HAVE HAD CONTACT WITH THE MEMBER WHO WAS
22 THE SUBJECT OF THE REPORT AND, IF SO, THE TYPES OF CONDUCT THAT
23 RESULT IN PROVIDING A NOTICE OF MISCONDUCT AND THE PROCESS FOR
24 PROVIDING THE NOTICE;

25 (e) CLEAR GUIDELINES FOR REPORTING TO THE ONLINE DATING
26 SERVICE MISCONDUCT COMMITTED BY A MEMBER AGAINST ANOTHER
27 MEMBER. THE GUIDELINES MUST BE REASONABLY DESIGNED TO REDUCE

1 THE USE OF REPORTING FOR THE PURPOSES OF BIAS, HARASSMENT,
2 THREATS, OR INTIMIDATION.

3 (f) A NOTICE THAT ENGAGING IN SEXUAL CONDUCT WITH ANOTHER
4 PERSON WITHOUT THE OTHER PERSON'S CONSENT VIOLATES THE SAFETY
5 POLICY, IS AGAINST THE LAW, AND MAY RESULT IN CRIMINAL OR CIVIL
6 LIABILITY;

7 (g) INFORMATION ABOUT RESOURCES AVAILABLE FOR MEMBERS
8 WHO EXPERIENCE MISCONDUCT COMMITTED BY ANOTHER MEMBER; AND

9 (h) A LIST OF SAFETY MEASURES TAKEN BY THE PLATFORM THAT
10 ARE REASONABLY DESIGNED TO PROMOTE SAFER ONLINE AND IN-PERSON
11 DATING EXPERIENCES FOR MEMBERS.

12 (3) AN ONLINE DATING SERVICE SHALL POST A LINK TO THE
13 SERVICE'S SAFETY POLICY TO MEMBERS ON THE FRONT PAGE OF ITS
14 WEBSITE AND ON ITS MOBILE APPLICATION, IF APPLICABLE, AND INCLUDE
15 THE SAFETY POLICY IN A DATING SERVICE CONTRACT DESCRIBED IN
16 SECTION 6-1-731.

17 (4) (a) AN ONLINE DATING SERVICE SHALL FILE ITS SAFETY POLICY
18 WITH THE ATTORNEY GENERAL'S OFFICE WITHIN FIFTEEN DAYS AFTER
19 ENACTING THE SAFETY POLICY. IF AN ONLINE DATING SERVICE UPDATES
20 ITS SAFETY POLICY, IT SHALL FILE THE UPDATED SAFETY POLICY WITH THE
21 ATTORNEY GENERAL'S OFFICE WITHIN SEVEN DAYS AFTER UPDATING THE
22 POLICY.

23 (b) ON OR BEFORE JANUARY 31, 2026, AND ON OR BEFORE
24 JANUARY 31 OF EACH YEAR THEREAFTER, AN ONLINE DATING SERVICE
25 SHALL SUBMIT AN ANNUAL REPORT TO THE ATTORNEY GENERAL'S OFFICE
26 THAT INCLUDES THE FOLLOWING INFORMATION FOR THE PRIOR YEAR:

27 (I) THE NUMBER OF REPORTS, AGGREGATED BY THE TYPE OF

1 REPORTED MISCONDUCT, THE ONLINE DATING SERVICE HAS RECEIVED
2 ABOUT MISCONDUCT COMMITTED BY A MEMBER, THAT THE SERVICE HAS
3 RESPONDED TO, AND THAT THE SERVICE FOUND CREDIBLE;

4 (II) THE NUMBER OF MEMBER PROFILES THE ONLINE DATING
5 SERVICE SUSPENDED AND THE TYPE OF REPORTED MISCONDUCT THAT
6 RESULTED IN THE SUSPENSION; AND

7 (III) THE NUMBER OF MEMBERS THE ONLINE DATING SERVICE
8 BARRED BECAUSE OF MISCONDUCT AND THE TYPE OF REPORTED
9 MISCONDUCT THAT RESULTED IN THE MEMBER BEING BARRED.

10 (5) THE ATTORNEY GENERAL'S OFFICE SHALL POST ON A PUBLIC
11 PAGE OF ITS WEBSITE A LINK TO EACH SAFETY POLICY AND EACH ANNUAL
12 REPORT FILED WITH THE OFFICE PURSUANT TO SUBSECTION (4) OF THIS
13 SECTION BY EACH ONLINE DATING SERVICE.

14 (6) NOTWITHSTANDING THE DAMAGE AWARDS SET FORTH IN
15 SECTION 6-1-113, IF A MEMBER WHO BRINGS AN ACTION PURSUANT TO
16 SECTION 6-1-113 WAS INJURED BY ANOTHER MEMBER AND A MISCONDUCT
17 REPORT AGAINST THE OTHER MEMBER WAS FILED WITH THE ONLINE
18 DATING SERVICE PRIOR TO THE INCIDENT, THE ONLINE DATING SERVICE IS
19 LIABLE FOR:

20 (a) THE FULL AMOUNT OF THE MEMBER'S ACTUAL DAMAGES
21 RESULTING FROM THE INCIDENT; OR

22 (b) IF THE ONLINE DATING SERVICE RECEIVED MORE THAN ONE
23 REPORT ABOUT THE OTHER MEMBER PRIOR TO THE INCIDENT AND THE
24 ONLINE DATING SERVICE FAILED TO TAKE TIMELY REMEDIAL ACTION
25 AGAINST THE OTHER MEMBER UPON RECEIVING A SECOND OR SUBSEQUENT
26 REPORT OF MISCONDUCT ABOUT A MEMBER, THREE TIMES THE AMOUNT OF
27 THE MEMBER'S ACTUAL DAMAGES RESULTING FROM THE INCIDENT.

1 THAT PERMITS AN ACTOR TO REMOTELY DETERMINE OR TRACK THE
2 POSITION OR MOVEMENT OF ANOTHER PERSON OR ANOTHER PERSON'S
3 PROPERTY.

4 (c) "TRACKING DEVICE" MEANS AN ELECTRONIC OR MECHANICAL
5 DEVICE THAT PERMITS AN ACTOR TO REMOTELY DETERMINE OR TRACK THE
6 POSITION OR MOVEMENT OF ANOTHER PERSON OR ANOTHER PERSON'S
7 PERSONAL PROPERTY.

8 (2) (a) A PERSON WHO WAS TRACKED BY MEANS OF A TRACKING
9 DEVICE OR TRACKING APPLICATION MAY BRING A CLAIM FOR DAMAGES,
10 INCLUDING NONECONOMIC LOSS OR INJURY, AGAINST THE ACTOR WHO
11 INSTALLED A TRACKING DEVICE ON THE PERSON'S PERSONAL PROPERTY
12 WITHOUT THE PERSON'S CONSENT OR WHO CAUSED A TRACKING DEVICE OR
13 TRACKING APPLICATION TO TRACK THE POSITION OR MOVEMENT OF THE
14 PERSON OR PERSON'S PERSONAL PROPERTY WITHOUT THE PERSON'S
15 CONSENT.

16 (b) A PERSON WHO HAS GIVEN CONSENT FOR AN ACTOR TO INSTALL
17 A TRACKING DEVICE OR TRACKING APPLICATION ON THE CONSENTING
18 PERSON'S PERSONAL PROPERTY MAY REVOKE THE CONSENT AT ANY TIME
19 AND MAY BRING A CLAIM PURSUANT TO THIS SECTION FOR TRACKING THAT
20 OCCURRED AFTER THE PERSON REVOKED CONSENT.

21 (3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A
22 PERSON SHALL NOT BRING A CLAIM AGAINST A LAW ENFORCEMENT
23 AGENCY OR PEACE OFFICER FOR ACTIONS TAKEN AS PART OF A CRIMINAL
24 INVESTIGATION OR A PEACE OFFICER ACTING WITHIN THE SCOPE OF THE
25 PEACE OFFICER'S OFFICIAL DUTIES.

26 **SECTION 5.** In Colorado Revised Statutes, 18-7-101, **amend** (1);
27 **and add** (1.3) as follows:

1 **18-7-101. Definitions.** As used in this part 1, unless the context
2 otherwise requires:

3 (1) ~~"Material" means anything tangible that is capable of being~~
4 ~~used or adapted to arouse interest, whether through the medium of~~
5 ~~reading, observation, sound, or in any other manner, but does not include~~
6 ~~an actual three-dimensional obscene device.~~ "COMPUTER GENERATED OR
7 DIGITALLY ALTERED SEXUAL IMAGE" MEANS A PHOTOGRAPH, FILM,
8 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT:

9 (a) DEPICTS AN ACTUAL PERSON WHO APPEARS TO BE ENGAGING
10 IN SPEECH OR CONDUCT IN WHICH THE PERSON DID NOT ENGAGE AND IS SO
11 REALISTIC THAT A REASONABLE PERSON WOULD BELIEVE IT DEPICTS THE
12 ACTUAL SPEECH OR CONDUCT OF THE DEPICTED PERSON;

13 (b) WAS SUBSTANTIALLY DEPENDENT UPON PRODUCTION BY
14 TECHNICAL MEANS, RATHER THAN THE ABILITY OF ANOTHER PERSON TO
15 PHYSICALLY OR VERBALLY IMPERSONATE THE DEPICTED PERSON; AND

16 (c) REALISTICALLY DEPICTS THE PRIVATE INTIMATE PARTS OF
17 ANOTHER PERSON AS THE PRIVATE INTIMATE PARTS OF THE DEPICTED
18 PERSON, ARTIFICIALLY GENERATED PRIVATE INTIMATE PARTS AS THE
19 PRIVATE INTIMATE PARTS OF THE DEPICTED PERSON, OR SEXUAL ACTS OF
20 THE DEPICTED PERSON.

21 (1.3) "MATERIAL" MEANS ANYTHING TANGIBLE THAT IS CAPABLE
22 OF BEING USED OR ADAPTED TO AROUSE INTEREST, WHETHER THROUGH
23 THE MEDIUM OF READING, OBSERVATION, SOUND, OR IN ANY OTHER
24 MANNER, BUT DOES NOT INCLUDE AN ACTUAL THREE-DIMENSIONAL
25 OBSCENE DEVICE.

26 **SECTION 6.** In Colorado Revised Statutes, 18-7-107, **amend**
27 (1)(a) introductory portion as follows:

1 **18-7-107. Posting a private image for harassment - definitions.**

2 (1) (a) An actor who is eighteen years of age or older commits the
3 offense of posting a private image for harassment if ~~he or she~~ THE ACTOR
4 posts or distributes through the use of social media or any website any
5 photograph, video, or other image displaying the private intimate parts of
6 an identified or identifiable person eighteen years of age or older, ~~or~~ an
7 image displaying sexual acts of an identified or identifiable person, OR A
8 COMPUTER GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE:

9 **SECTION 7.** In Colorado Revised Statutes, 18-7-108, **amend**
10 (1)(a) introductory portion as follows:

11 **18-7-108. Posting a private image for pecuniary gain -**
12 **definitions.** (1) (a) An actor who is eighteen years of age or older
13 commits the offense of posting a private image for pecuniary gain if ~~he~~
14 ~~or she~~ THE ACTOR posts or distributes through social media or any website
15 any photograph, video, or other image displaying the private intimate
16 parts of an identified or identifiable person eighteen years of age or older,
17 ~~or~~ an image displaying sexual acts of an identified or identifiable person,
18 OR A COMPUTER GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE:

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

21 **18-7-109. Posting, possession, or exchange of a private image**
22 **by a juvenile - definitions - penalties.** (8) As used in this section,
23 UNLESS THE CONTEXT OTHERWISE REQUIRES:

24 (b) "Sexually explicit image" means any electronic or digital
25 photograph, video, or video depiction of the external genitalia or
26 perineum or anus or buttocks or pubes of any person or the breast of a
27 female person. "SEXUALLY EXPLICIT IMAGE" INCLUDES A COMPUTER

1 GENERATED OR DIGITALLY ALTERED SEXUAL IMAGE, AS DEFINED IN
2 SECTION 18-7-101.

3 **SECTION 9. Act subject to petition - effective date -**
4 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
5 the expiration of the ninety-day period after final adjournment of the
6 general assembly; except that, if a referendum petition is filed pursuant
7 to section 1 (3) of article V of the state constitution against this act or an
8 item, section, or part of this act within such period, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2024 and, in such case, will take
11 effect on the date of the official declaration of the vote thereon by the
12 governor.

13 (2) This act applies to offenses committed and claims filed on or
14 after the applicable effective date of this act.