

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 24-0534.01 Richard Sweetman x4333

HOUSE BILL 24-1130

HOUSE SPONSORSHIP

Daugherty and Lynch, Amabile, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Duran, Hamrick, Herod, Jodeh, Kipp, Lieder, Lindsay, Mabrey, Marshall, Marvin, McCluskie, Parenti, Rutinel, Sirota, Titone, Valdez, Weinberg, Weissman, Young

SENATE SPONSORSHIP

Lundeen and Hansen,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING PROTECTING THE PRIVACY OF AN INDIVIDUAL'S**
102 **BIOMETRIC DATA.**

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 protections for an individual's biometric data by requiring a person that, alone or jointly with others, determines the purposes for and means of processing biometric data (controller) to adopt a written policy that:

- Establishes a retention schedule for biometric identifiers;
- Includes a protocol for responding to a breach of security

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.

SENATE
Amended 2nd Reading
April 18, 2024

HOUSE
Amended 3rd Reading
February 20, 2024

HOUSE
Amended 2nd Reading
February 16, 2024

- of biometric data; and
- Includes guidelines that require the permanent destruction of a biometric identifier by the earliest of certain dates.

The bill also:

- Prohibits a controller from collecting a biometric identifier unless the controller first satisfies certain disclosure and consent requirements;
- Specifies certain prohibited acts and requirements for controllers that collect and use biometric data;
- Requires a controller to allow a consumer to access and update a biometric identifier;
- Restricts an employer's permissible reasons for obtaining an employee's consent for the collection of biometric identifiers; and
- Authorizes the attorney general to promulgate rules to implement the bill.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Businesses increasingly use biometric identifiers to attempt to
5 verify customer identities, streamline transactions, control access to
6 secure areas, and maximize revenues;

7 (b) Biometric identifiers are unlike other unique identifiers that
8 are used to verify identity or to access finances or other sensitive
9 information because, unlike social security numbers, for example,
10 biometric identifiers cannot be changed; they are unique to an individual,
11 and once an individual's biometric identifiers are compromised, the
12 individual has no recourse, is at heightened risk for identity theft, and
13 may no longer feel safe participating in biometric-facilitated transactions;

14 (c) The public has grown wary of the use of biometric identifiers
15 due to recent data breaches that have exposed many individuals' biometric
16 identifiers, leaving those individuals vulnerable to harm; and

1 (d) Biometric identifiers can be collected without an individual's
2 knowledge, applied instantaneously to identify the individual in
3 circumstances where the individual has an expectation of privacy and
4 anonymity, and used to identify and track the individual's movements,
5 activities, and associations.

6 (2) The general assembly further finds that:

7 (a) One increasingly prevalent biometric collection and matching
8 technology, facial recognition technology, has been shown to have higher
9 rates of misidentification and misclassification when it is used on faces
10 of color, of women, of children, of the elderly, and of transgender and
11 nonbinary persons; and

12 (b) This misidentification and misclassification has led to
13 documented cases of businesses refusing admission or service to
14 individuals because facial recognition systems incorrectly "matched" the
15 individuals to photos of suspected shoplifters or other individuals who
16 had been barred from the premises.

17 (3) While increasing protections for individuals' biometric
18 identifiers is of the utmost importance, critical privacy protections must
19 be balanced with the use of biometric data to support public safety as
20 outlined in state and federal statutes. The "Colorado Privacy Act", part 13
21 of article 1 of title 6, includes a variety of exceptions to the requirements
22 established in this act, including permitted uses of biometric data for
23 public safety needs, and all of the exceptions that apply to the entirety of
24 the "Colorado Privacy Act" apply to the protections established for
25 biometric data and biometric identifiers in this act.

26 (4) Therefore, the general assembly declares that the public
27 welfare, security, and safety will be served by regulating the collection,

1 use, safeguarding, handling, storage, retention, and destruction of
2 biometric identifiers.

3 **SECTION 2.** In Colorado Revised Statutes, **add** 6-1-1314 as
4 follows:

5 **6-1-1314. Biometric data and biometric identifiers -**
6 **controllers - duties and requirements - written policy - prohibited**
7 **acts - right to correct biometric identifiers - right to access biometric**
8 **identifiers - remedies and civil actions - definitions.** (1) AS USED IN
9 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 (a) "COLLECT", "COLLECTION", OR "COLLECTING" MEANS TO
11 ACCESS, ASSEMBLE, BUY, RENT, GATHER, PROCURE, RECEIVE, CAPTURE, OR
12 OTHERWISE OBTAIN ANY BIOMETRIC IDENTIFIER OR BIOMETRIC DATA
13 PERTAINING TO A CONSUMER BY ANY MEANS, ONLINE OR OFFLINE,
14 INCLUDING:

15 (I) ACTIVELY OR PASSIVELY RECEIVING A BIOMETRIC IDENTIFIER
16 OR BIOMETRIC DATA FROM THE CONSUMER OR FROM A THIRD PARTY; AND

17 (II) OBTAINING BIOMETRIC DATA BY OBSERVING THE CONSUMER'S
18 BEHAVIOR.

19 (b) "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED
20 FULL-TIME, PART-TIME, OR ON-CALL OR WHO IS HIRED AS A CONTRACTOR,
21 SUBCONTRACTOR, INTERN, OR FELLOW.

22 (c) "LEGALLY AUTHORIZED REPRESENTATIVE" MEANS A PARENT
23 OR LEGAL GUARDIAN OF A MINOR OR A LEGAL GUARDIAN OF AN ADULT.

24 (2) **Written policy required.** (a) A CONTROLLER THAT CONTROLS
25 OR PROCESSES ONE OR MORE BIOMETRIC IDENTIFIERS SHALL ADOPT A
26 WRITTEN POLICY THAT:

27 (I) ESTABLISHES A RETENTION SCHEDULE FOR BIOMETRIC

1 IDENTIFIERS AND BIOMETRIC DATA;

2 (II) INCLUDES A PROTOCOL FOR RESPONDING TO A DATA SECURITY
3 INCIDENT THAT MAY COMPROMISE THE SECURITY OF BIOMETRIC
4 IDENTIFIERS OR BIOMETRIC DATA, INCLUDING A PROCESS FOR NOTIFYING
5 A CONSUMER WHEN THE SECURITY OF THE CONSUMER'S BIOMETRIC
6 IDENTIFIER OR BIOMETRIC DATA HAS BEEN BREACHED, PURSUANT TO
7 SECTION 6-1-716; AND

8 (III) INCLUDES GUIDELINES THAT REQUIRE THE DELETION OF A
9 BIOMETRIC IDENTIFIER ON OR BEFORE THE EARLIEST OF THE FOLLOWING
10 DATES:

11 (A) THE DATE UPON WHICH THE INITIAL PURPOSE FOR COLLECTING
12 THE BIOMETRIC IDENTIFIER HAS BEEN SATISFIED;

13 (B) TWENTY-FOUR MONTHS AFTER THE CONSUMER LAST
14 INTERACTED WITH THE CONTROLLER; OR

15 (C) THE EARLIEST REASONABLY FEASIBLE DATE, WHICH DATE
16 MUST BE NO MORE THAN FORTY-FIVE DAYS AFTER A CONTROLLER
17 DETERMINES THAT STORAGE OF THE BIOMETRIC IDENTIFIER IS NO LONGER
18 NECESSARY, ADEQUATE, OR RELEVANT TO THE EXPRESS PROCESSING
19 PURPOSE IDENTIFIED BY A REVIEW CONDUCTED BY THE CONTROLLER AT
20 LEAST ONCE ANNUALLY. THE CONTROLLER MAY EXTEND THE
21 FORTY-FIVE-DAY PERIOD DESCRIBED IN THIS SUBSECTION (2)(a)(III)(C) BY
22 UP TO FORTY-FIVE ADDITIONAL DAYS IF SUCH AN EXTENSION IS
23 REASONABLY NECESSARY, TAKING INTO ACCOUNT THE COMPLEXITY AND
24 NUMBER OF BIOMETRIC IDENTIFIERS REQUIRED TO BE DELETED.

25 (b) A CONTROLLER SHALL MAKE ITS POLICY ADOPTED PURSUANT
26 TO SUBSECTION (2)(a) OF THIS SECTION AVAILABLE TO THE PUBLIC;
27 EXCEPT THAT A CONTROLLER IS NOT REQUIRED TO MAKE AVAILABLE TO

1 THE PUBLIC:

2 (I) A WRITTEN POLICY THAT APPLIES ONLY TO CURRENT
3 EMPLOYEES OF THE CONTROLLER;

4 (II) A WRITTEN POLICY THAT IS USED SOLELY BY EMPLOYEES AND
5 AGENTS OF THE CONTROLLER FOR THE OPERATION OF THE CONTROLLER;

6 OR

7 (III) THE INTERNAL PROTOCOL FOR RESPONDING TO A DATA
8 SECURITY INCIDENT THAT MAY COMPROMISE THE SECURITY OF BIOMETRIC
9 IDENTIFIERS OR BIOMETRIC DATA.

10 **(3) Processors - security breach protocols.** A PROCESSOR OF
11 BIOMETRIC IDENTIFIERS OR BIOMETRIC DATA MUST HAVE A PROTOCOL FOR
12 RESPONDING TO A DATA SECURITY INCIDENT THAT MAY COMPROMISE THE
13 SECURITY OF BIOMETRIC IDENTIFIERS OR BIOMETRIC DATA, INCLUDING A
14 PROCESS FOR NOTIFYING THE CONTROLLER WHEN THE SECURITY OF A
15 CONSUMER'S BIOMETRIC IDENTIFIER OR BIOMETRIC DATA HAS BEEN
16 BREACHED, PURSUANT TO SECTION 6-1-716.

17 **(4) Collection and retention of biometric identifiers -**
18 **requirements - prohibited acts.** (a) A CONTROLLER SHALL NOT COLLECT
19 OR PROCESS A BIOMETRIC IDENTIFIER OF A CONSUMER UNLESS THE
20 CONTROLLER FIRST:

21 (I) SATISFIES ALL DUTIES REQUIRED BY SECTION 6-1-1308;

22 (II) INFORMS THE CONSUMER OR THE CONSUMER'S LEGALLY
23 AUTHORIZED REPRESENTATIVE IN A CLEAR, REASONABLY ACCESSIBLE,
24 AND UNDERSTANDABLE MANNER THAT A BIOMETRIC IDENTIFIER IS BEING
25 COLLECTED;

26 (III) INFORMS THE CONSUMER OR THE CONSUMER'S LEGALLY
27 AUTHORIZED REPRESENTATIVE IN A CLEAR, REASONABLY ACCESSIBLE,

1 AND UNDERSTANDABLE MANNER OF THE SPECIFIC PURPOSE FOR WHICH A
2 BIOMETRIC IDENTIFIER IS BEING COLLECTED AND THE LENGTH OF TIME
3 THAT THE CONTROLLER WILL RETAIN THE BIOMETRIC IDENTIFIER; AND

4 (IV) INFORMS THE CONSUMER OR THE CONSUMER'S LEGALLY
5 AUTHORIZED REPRESENTATIVE IN A CLEAR, REASONABLY ACCESSIBLE,
6 AND UNDERSTANDABLE MANNER IF THE BIOMETRIC IDENTIFIER WILL BE
7 DISCLOSED, REDISCLOSED, OR OTHERWISE DISSEMINATED TO A PROCESSOR
8 AND THE SPECIFIC PURPOSE FOR WHICH THE BIOMETRIC IDENTIFIER IS
9 BEING SHARED WITH A PROCESSOR.

10 (b) A CONTROLLER THAT PROCESSES A CONSUMER'S BIOMETRIC
11 IDENTIFIER SHALL NOT:

12 (I) SELL, LEASE, OR TRADE THE BIOMETRIC IDENTIFIER WITH ANY
13 ENTITY; OR

14 (II) DISCLOSE, REDISCLOSE, OR OTHERWISE DISSEMINATE THE
15 BIOMETRIC IDENTIFIER UNLESS:

16 (A) THE CONSUMER OR THE CONSUMER'S LEGALLY AUTHORIZED
17 REPRESENTATIVE CONSENTS TO THE DISCLOSURE, REDISCLOSURE, OR
18 OTHER DISSEMINATION;

19 (B) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION
20 IS REQUESTED OR AUTHORIZED BY THE CONSUMER OR THE CONSUMER'S
21 LEGALLY AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF
22 COMPLETING A FINANCIAL TRANSACTION;

23 (C) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION
24 IS TO A PROCESSOR AND IS NECESSARY FOR THE PURPOSE FOR WHICH THE
25 BIOMETRIC IDENTIFIER WAS COLLECTED AND TO WHICH THE CONSUMER OR
26 THE CONSUMER'S LEGALLY AUTHORIZED REPRESENTATIVE CONSENTED; OR

27 (D) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION

1 IS REQUIRED BY STATE OR FEDERAL LAW.

2 (c) A CONTROLLER SHALL NOT:

3 (I) REFUSE TO PROVIDE A GOOD OR SERVICE TO A CONSUMER,
4 BASED ON THE CONSUMER'S REFUSAL TO CONSENT TO THE CONTROLLER'S
5 COLLECTION, USE, DISCLOSURE, TRANSFER, SALE, RETENTION, OR
6 PROCESSING OF A BIOMETRIC IDENTIFIER UNLESS THE COLLECTION, USE,
7 DISCLOSURE, TRANSFER, SALE, RETENTION, OR PROCESSING OF THE
8 BIOMETRIC IDENTIFIER IS NECESSARY TO PROVIDE THE GOOD OR SERVICE;

9
10 (II) CHARGE A DIFFERENT PRICE OR RATE FOR A GOOD OR SERVICE
11 OR PROVIDE A DIFFERENT LEVEL OF QUALITY OF A GOOD OR SERVICE TO
12 ANY CONSUMER WHO EXERCISES THE CONSUMER'S RIGHTS UNDER THIS
13 PART 13; OR

14 (III) PURCHASE A BIOMETRIC IDENTIFIER UNLESS THE CONTROLLER
15 PAYS THE CONSUMER FOR THE COLLECTION OF THE CONSUMER'S
16 BIOMETRIC IDENTIFIER, THE PURCHASE IS UNRELATED TO THE PROVISION
17 OF A PRODUCT OR SERVICE TO THE CONSUMER, AND THE CONTROLLER HAS
18 OBTAINED CONSENT AS DESCRIBED IN SUBSECTION (4)(a) OF THIS
19 SECTION.

20 (d) A CONTROLLER OR PROCESSOR SHALL STORE, TRANSMIT, AND
21 PROTECT FROM DISCLOSURE ALL BIOMETRIC IDENTIFIERS USING THE
22 STANDARD OF CARE WITHIN THE CONTROLLER'S INDUSTRY AND IN
23 ACCORDANCE WITH SECTIONS 6-1-1305 (4) AND 6-1-1308 (5).

24 (e) A CONTROLLER SHALL OBTAIN CONSENT FROM A CONSUMER OR
25 FROM THE CONSUMER'S LEGALLY AUTHORIZED REPRESENTATIVE BEFORE
26 COLLECTING THE CONSUMER'S BIOMETRIC DATA, AS REQUIRED BY SECTION
27 6-1-1308 (7).

1 **(5) Right to access biometric data - applicability - definition.**

2 (a) EXCEPT AS DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION, AT THE
3 REQUEST OF A CONSUMER OR A CONSUMER'S LEGALLY AUTHORIZED
4 REPRESENTATIVE, A CONTROLLER THAT COLLECTS THE CONSUMER'S
5 BIOMETRIC DATA SHALL DISCLOSE TO THE CONSUMER, FREE OF CHARGE,
6 THE CATEGORY OR DESCRIPTION OF THE CONSUMER'S BIOMETRIC DATA
7 AND THE FOLLOWING INFORMATION:

8 (I) THE SOURCE FROM WHICH THE CONTROLLER COLLECTED THE
9 BIOMETRIC DATA;

10 (II) THE PURPOSE FOR WHICH THE CONTROLLER COLLECTED OR
11 PROCESSED THE BIOMETRIC DATA AND ANY ASSOCIATED PERSONAL DATA;

12 (III) THE IDENTITY OF ANY THIRD PARTY WITH WHICH THE
13 CONTROLLER DISCLOSED OR DISCLOSES THE BIOMETRIC DATA AND THE
14 PURPOSES FOR DISCLOSING; AND

15 (IV) THE CATEGORY OR A DESCRIPTION OF THE SPECIFIC
16 BIOMETRIC DATA THAT THE CONTROLLER DISCLOSES TO THIRD PARTIES.

17 (b) THE REQUIREMENTS OF SUBSECTION (5)(a) OF THIS SECTION
18 APPLY ONLY TO:

19 (I) A SOLE PROPRIETORSHIP, A PARTNERSHIP, A LIMITED LIABILITY
20 COMPANY, A CORPORATION, AN ASSOCIATION, OR ANOTHER LEGAL ENTITY
21 THAT:

22 (A) CONDUCTS BUSINESS IN COLORADO OR PRODUCES OR
23 DELIVERS COMMERCIAL PRODUCTS OR SERVICES THAT ARE MARKETED TO
24 COLORADO RESIDENTS;

25 (B) COLLECTS BIOMETRIC DATA OR HAS BIOMETRIC DATA
26 COLLECTED ON ITS BEHALF; AND

27 (C) EITHER COLLECTS OR PROCESSES THE PERSONAL DATA OF ONE

1 HUNDRED THOUSAND INDIVIDUALS OR MORE DURING A CALENDAR YEAR
2 OR COLLECTS AND PROCESSES THE PERSONAL DATA OF TWENTY-FIVE
3 THOUSAND INDIVIDUALS OR MORE AND DERIVES REVENUE FROM, OR
4 RECEIVES A DISCOUNT ON THE PRICE OF GOODS OR SERVICES FROM, THE
5 SALE OF PERSONAL DATA;

6 (II) A CONTROLLER THAT CONTROLS OR IS CONTROLLED BY
7 ANOTHER CONTROLLER AND THAT SHARES COMMON BRANDING WITH THE
8 OTHER CONTROLLER. AS USED IN THIS SUBSECTION (5)(b)(II), "COMMON
9 BRANDING" MEANS A SHARED NAME, SERVICE MARK, OR TRADEMARK
10 THAT A CONSUMER WOULD REASONABLY UNDERSTAND TO INDICATE THAT
11 TWO OR MORE ENTITIES ARE COMMONLY OWNED.

12 ==
13 (III) A JOINT VENTURE OR PARTNERSHIP CONSISTING OF NO MORE
14 THAN TWO BUSINESSES THAT SHARE CONSUMERS' PERSONAL DATA WITH
15 EACH OTHER.

16 (6) **Use of consent by employers.** (a) AN EMPLOYER MAY
17 REQUIRE AS A CONDITION OF EMPLOYMENT THAT AN EMPLOYEE OR A
18 PROSPECTIVE EMPLOYEE CONSENT TO ALLOWING THE EMPLOYER TO
19 COLLECT AND PROCESS THE EMPLOYEE'S OR THE PROSPECTIVE EMPLOYEE'S
20 BIOMETRIC IDENTIFIER ONLY TO:

21 (I) PERMIT ACCESS TO SECURE PHYSICAL LOCATIONS AND SECURE
22 ELECTRONIC HARDWARE AND SOFTWARE APPLICATIONS; EXCEPT THAT AN
23 EMPLOYER SHALL NOT OBTAIN THE EMPLOYEE'S OR PROSPECTIVE
24 EMPLOYEE'S CONSENT TO RETAIN BIOMETRIC DATA THAT IS USED FOR
25 CURRENT EMPLOYEE LOCATION TRACKING OR THE TRACKING OF HOW
26 MUCH TIME THE EMPLOYEE SPENDS USING A HARDWARE OR SOFTWARE
27 APPLICATION; ==

1 (II) RECORD THE COMMENCEMENT AND CONCLUSION OF THE
2 EMPLOYEE'S FULL WORK DAY, INCLUDING MEAL BREAKS AND REST BREAKS
3 IN EXCESS OF THIRTY MINUTES;

4 (III) IMPROVE OR MONITOR WORKPLACE SAFETY OR SECURITY OR
5 ENSURE THE SAFETY OR SECURITY OF EMPLOYEES; OR

6 (IV) IMPROVE OR MONITOR THE SAFETY OR SECURITY OF THE
7 PUBLIC IN THE EVENT OF AN EMERGENCY OR CRISIS SITUATION.

8 (b) AN EMPLOYER AND ITS PROCESSOR MAY COLLECT AND PROCESS
9 AN EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S BIOMETRIC IDENTIFIER FOR
10 USES OTHER THAN THOSE DESCRIBED IN SUBSECTION (6)(a) OF THIS
11 SECTION ONLY WITH THE EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S
12 CONSENT. AN EMPLOYER MAY NOT REQUIRE THAT AN EMPLOYEE OR
13 PROSPECTIVE EMPLOYEE CONSENT TO SUCH COLLECTION OR PROCESSING
14 AS A CONDITION OF EMPLOYMENT OR RETALIATE AGAINST AN EMPLOYEE
15 OR PROSPECTIVE EMPLOYEE WHO DOES NOT CONSENT TO SUCH
16 COLLECTION OR PROCESSING.

17 (c) SO LONG AS CONSENT THAT IS OBTAINED FOR COLLECTION AND
18 PROCESSING AS DESCRIBED IN ___ THIS SECTION SATISFIES THE DEFINITION
19 OF CONSENT PROVIDED IN SECTION 6-1-1303 (5), CONSENT IS CONSIDERED
20 TO BE FREELY GIVEN AND VALID FOR THE ___ PURPOSES DESCRIBED IN
21 SUBSECTION (6)(a) OF THIS SECTION.

22 (d) NOTHING IN THIS SECTION RESTRICTS AN EMPLOYER OR ITS
23 PROCESSOR'S ABILITY TO COLLECT AND PROCESS AN EMPLOYEE'S OR
24 PROSPECTIVE EMPLOYEE'S BIOMETRIC IDENTIFIER FOR USES ALIGNED WITH
25 THE REASONABLE EXPECTATIONS OF:

26 (I) AN EMPLOYEE BASED ON THE EMPLOYEE'S JOB DESCRIPTION OR
27 ROLE; OR

1 (II) A PROSPECTIVE EMPLOYEE BASED ON A REASONABLE
2 BACKGROUND CHECK, APPLICATION, OR IDENTIFICATION REQUIREMENTS
3 IN ACCORDANCE WITH THIS SECTION.

4 (7) **Rules.** THE DEPARTMENT OF LAW MAY PROMULGATE RULES
5 FOR THE IMPLEMENTATION OF THIS SECTION, INCLUDING RULES
6 PROMULGATED IN CONSULTATION WITH THE OFFICE OF INFORMATION
7 TECHNOLOGY AND THE DEPARTMENT OF REGULATORY AGENCIES
8 ESTABLISHING APPROPRIATE SECURITY STANDARDS FOR BIOMETRIC
9 IDENTIFIERS AND BIOMETRIC DATA THAT ARE MORE STRINGENT THAN THE
10 REQUIREMENTS DESCRIBED IN THIS SECTION.

11 **SECTION 3.** In Colorado Revised Statutes, 6-1-1303, **add** (2.2)
12 and (2.4) as follows:

13 **6-1-1303. Definitions.** As used in this part 13, unless the context
14 otherwise requires:

15 (2.2) (a) "BIOMETRIC DATA" MEANS ONE OR MORE BIOMETRIC
16 IDENTIFIERS THAT ARE USED OR INTENDED TO BE USED, SINGLY OR IN
17 COMBINATION WITH EACH OTHER OR WITH OTHER PERSONAL DATA, FOR
18 IDENTIFICATION PURPOSES.

19 (b) "BIOMETRIC DATA" DOES NOT INCLUDE THE FOLLOWING
20 UNLESS THE BIOMETRIC DATA IS USED FOR IDENTIFICATION PURPOSES:

- 21 (I) A DIGITAL OR PHYSICAL PHOTOGRAPH;
- 22 (II) AN AUDIO OR VOICE RECORDING; OR
- 23 (III) ANY DATA GENERATED FROM A DIGITAL OR PHYSICAL
24 PHOTOGRAPH OR AN AUDIO OR VIDEO RECORDING.

25 (2.4) "BIOMETRIC IDENTIFIER" MEANS DATA GENERATED BY THE
26 TECHNOLOGICAL PROCESSING, MEASUREMENT, OR ANALYSIS OF A
27 CONSUMER'S BIOLOGICAL, PHYSICAL, OR BEHAVIORAL CHARACTERISTICS,

1 WHICH DATA CAN BE PROCESSED FOR THE PURPOSE OF UNIQUELY
2 IDENTIFYING AN INDIVIDUAL. "BIOMETRIC IDENTIFIER" INCLUDES:

- 3 (a) A FINGERPRINT;
- 4 (b) A VOICEPRINT;
- 5 (c) A SCAN OR RECORD OF AN EYE RETINA OR IRIS;
- 6 (d) A FACIAL MAP, FACIAL GEOMETRY, OR FACIAL TEMPLATE; OR
- 7 (e) OTHER UNIQUE BIOLOGICAL, PHYSICAL, OR BEHAVIORAL
8 PATTERNS OR CHARACTERISTICS.

9 **SECTION 4.** In Colorado Revised Statutes, 6-1-1304, **amend** (1);
10 and **add** (6) as follows:

11 **6-1-1304. Applicability of part.** (1) Except as specified in
12 subsection (2) of this section, this part 13 applies to a controller that:

13 (a) (I) Conducts business in Colorado or produces or delivers
14 commercial products or services that are intentionally targeted to
15 residents of Colorado; and

16 ~~(b)~~ (II) Satisfies one or both of the following thresholds:

17 ~~(H)~~ (A) Controls or processes the personal data of one hundred
18 thousand consumers or more during a calendar year; or

19 ~~(H)~~ (B) Derives revenue or receives a discount on the price of
20 goods or services from the sale of personal data and processes or controls
21 the personal data of twenty-five thousand consumers or more; OR

22 (b) CONTROLS OR PROCESSES ANY AMOUNT OF BIOMETRIC
23 IDENTIFIERS OR BIOMETRIC DATA REGARDLESS OF THE AMOUNT OF
24 BIOMETRIC IDENTIFIERS OR BIOMETRIC DATA CONTROLLED OR PROCESSED
25 ANNUALLY; EXCEPT THAT A CONTROLLER THAT MEETS THE
26 QUALIFICATIONS OF THIS SUBSECTION (1)(b) BUT DOES NOT MEET THE
27 QUALIFICATIONS OF SUBSECTION (1)(a) OF THIS SECTION SHALL COMPLY

1 WITH THIS PART 13 ONLY FOR THE PURPOSES OF A BIOMETRIC IDENTIFIER
2 OR BIOMETRIC DATA THAT THE CONTROLLER COLLECTS AND PROCESSES.

3

==

4 **SECTION 5. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect July 1, 2025; except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within the ninety-day period after final adjournment of the general
9 assembly, then the act, item, section, or part will not take effect unless
10 approved by the people at the general election to be held in November
11 2024 and, in such case, will take effect July 1, 2025, or on the date of the
12 official declaration of the vote thereon by the governor, whichever is
13 later.

14 (2) This act applies to the collection, retention, processing, and
15 use of biometric identifiers and biometric data on and after the applicable
16 effective date of this act.