

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**REREVISED**

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

LLS NO. 21-0077.01 Thomas Morris x4218

**SENATE BILL 21-190**

**SENATE SPONSORSHIP**

**Rodriguez and Lundeen,** Bridges, Buckner, Coleman, Cooke, Danielson, Donovan, Fenberg, Garcia, Gardner, Ginal, Gonzales, Hansen, Hisey, Holbert, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Moreno, Pettersen, Priola, Rankin, Scott, Simpson, Sonnenberg, Story, Winter, Woodward

**HOUSE SPONSORSHIP**

**Duran and Carver,** Bennett, Bird, Cutter, Exum, Gonzales-Gutierrez, Gray, Herod, Jodeh, Lynch, McCluskie, McCormick, Mullica, Ricks, Snyder, Titone, Valdez A., Woodrow

**Senate Committees**

Business, Labor, & Technology  
Appropriations

**House Committees**

Finance  
Appropriations

**A BILL FOR AN ACT**

101 **CONCERNING ADDITIONAL PROTECTION OF DATA RELATING TO**  
102 **PERSONAL PRIVACY.**

**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 personal data privacy rights and:

- Applies to legal entities that conduct business or produce products or services that are intentionally targeted to Colorado residents and that either:
  - Control or process personal data of more than 100,000 consumers per calendar year; or

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.

HOUSE  
3rd Reading Unamended  
June 7, 2021

HOUSE  
Amended 2nd Reading  
June 4, 2021

SENATE  
3rd Reading Unamended  
May 26, 2021

SENATE  
Amended 2nd Reading  
May 25, 2021

- Derive revenue from the sale of personal data and control or process the personal data of at least 25,000 consumers; and
- Does not apply to personal data governed by listed state and federal laws, listed activities, and employment records.

Consumers have the right to opt out of the processing of their personal data; access, correct, or delete the data; or obtain a portable copy of the data. The bill defines a "controller" as a person that, alone or jointly with others, determines the purposes and means of processing personal data. A "processor" means a person that processes personal data on behalf of a controller.

The bill:

- Specifies how controllers must fulfill duties regarding consumers' assertion of their rights, transparency, purpose specification, data minimization, avoiding secondary use, care, avoiding unlawful discrimination, and sensitive data;
- Requires controllers to conduct a data protection assessment for each of their processing activities involving personal data that present a heightened risk of harm to consumers, such as processing for purposes of targeted advertising or processing sensitive data; and
- May be enforced only by the attorney general or district attorneys.

---

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

2 **SECTION 1. In Colorado Revised Statutes, add part 13 to article**  
 3 **1 of title 6 as follows:**

4 **PART 13**

5 **COLORADO PRIVACY ACT**

6 **6-1-1301. Short title. THE SHORT TITLE OF THIS PART 13 IS THE**  
 7 **"COLORADO PRIVACY ACT".**

8 **6-1-1302. Legislative declaration. (1) THE GENERAL ASSEMBLY**  
 9 **HEREBY:**

10 **(a) FINDS THAT:**

11 **(I) THE PEOPLE OF COLORADO REGARD THEIR PRIVACY AS A**  
 12 **FUNDAMENTAL RIGHT AND AN ESSENTIAL ELEMENT OF THEIR INDIVIDUAL**

1 FREEDOM;  
2 (II) COLORADO'S CONSTITUTION EXPLICITLY PROVIDES THE RIGHT  
3 TO PRIVACY UNDER SECTION 7 OF ARTICLE II, AND FUNDAMENTAL PRIVACY  
4 RIGHTS HAVE LONG BEEN, AND CONTINUE TO BE, INTEGRAL TO  
5 PROTECTING COLORADANS AND TO SAFEGUARDING OUR DEMOCRATIC  
6 REPUBLIC;  
7 (III) ONGOING ADVANCES IN TECHNOLOGY HAVE PRODUCED  
8 EXPONENTIAL GROWTH IN THE VOLUME AND VARIETY OF PERSONAL DATA  
9 BEING GENERATED, COLLECTED, STORED, AND ANALYZED AND THESE  
10 ADVANCES PRESENT BOTH PROMISE AND POTENTIAL PERIL;  
11 (IV) THE ABILITY TO HARNESS AND USE DATA IN POSITIVE WAYS  
12 IS DRIVING INNOVATION AND BRINGS BENEFICIAL TECHNOLOGIES TO  
13 SOCIETY, BUT IT HAS ALSO CREATED RISKS TO PRIVACY AND FREEDOM;  
14 AND  
15 (V) THE UNAUTHORIZED DISCLOSURE OF PERSONAL INFORMATION  
16 AND LOSS OF PRIVACY CAN HAVE DEVASTATING IMPACTS RANGING FROM  
17 FINANCIAL FRAUD, IDENTITY THEFT, AND UNNECESSARY COSTS IN  
18 PERSONAL TIME AND FINANCES TO DESTRUCTION OF PROPERTY,  
19 HARASSMENT, REPUTATIONAL DAMAGE, EMOTIONAL DISTRESS, AND  
20 PHYSICAL HARM;  
21 (b) DETERMINES THAT:  
22 (I) TECHNOLOGICAL INNOVATION AND NEW USES OF DATA CAN  
23 HELP SOLVE SOCIETAL PROBLEMS AND IMPROVE LIVES, AND IT IS POSSIBLE  
24 TO BUILD A WORLD WHERE TECHNOLOGICAL INNOVATION AND PRIVACY  
25 CAN COEXIST; AND  
26 (II) STATES ACROSS THE UNITED STATES ARE LOOKING TO THIS  
27 PART 13 AND SIMILAR MODELS TO ENACT STATE-BASED DATA PRIVACY

1 REQUIREMENTS AND TO EXERCISE THE LEADERSHIP THAT IS LACKING AT  
2 THE NATIONAL LEVEL; AND

3 (c) DECLARES THAT:

4 (I) BY ENACTING THIS PART 13, COLORADO WILL BE AMONG THE  
5 STATES THAT EMPOWER CONSUMERS TO PROTECT THEIR PRIVACY AND  
6 REQUIRE COMPANIES TO BE RESPONSIBLE CUSTODIANS OF DATA AS THEY  
7 CONTINUE TO INNOVATE;

8 (II) THIS PART 13 ADDRESSES ISSUES OF STATEWIDE CONCERN  
9 AND:

10 (A) PROVIDES CONSUMERS THE RIGHT TO ACCESS, CORRECT, AND  
11 DELETE PERSONAL DATA AND THE RIGHT TO OPT OUT NOT ONLY OF THE  
12 SALE OF PERSONAL DATA BUT ALSO OF THE COLLECTION AND USE OF  
13 PERSONAL DATA;

14 (B) IMPOSES AN AFFIRMATIVE OBLIGATION UPON COMPANIES TO  
15 SAFEGUARD PERSONAL DATA; TO PROVIDE CLEAR, UNDERSTANDABLE, AND  
16 TRANSPARENT INFORMATION TO CONSUMERS ABOUT HOW THEIR PERSONAL  
17 DATA ARE USED; AND TO STRENGTHEN COMPLIANCE AND ACCOUNTABILITY  
18 BY REQUIRING DATA PROTECTION ASSESSMENTS IN THE COLLECTION AND  
19 USE OF PERSONAL DATA; AND

20 (C) EMPOWERS THE ATTORNEY GENERAL AND DISTRICT  
21 ATTORNEYS TO ACCESS AND EVALUATE A COMPANY'S DATA PROTECTION  
22 ASSESSMENTS, TO IMPOSE PENALTIES WHERE VIOLATIONS OCCUR, AND TO  
23 PREVENT FUTURE VIOLATIONS.

24 **6-1-1303. Definitions.** AS USED IN THIS PART 13, UNLESS THE  
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "AFFILIATE" MEANS A LEGAL ENTITY THAT CONTROLS, IS  
27 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER LEGAL

1 ENTITY. AS USED IN THIS SUBSECTION (1), "CONTROL" MEANS:

2 (a) OWNERSHIP OF, CONTROL OF, OR POWER TO VOTE TWENTY-FIVE

3 PERCENT OR MORE OF THE OUTSTANDING SHARES OF ANY CLASS OF

4 VOTING SECURITY OF THE ENTITY, DIRECTLY OR INDIRECTLY, OR ACTING

5 THROUGH ONE OR MORE OTHER PERSONS;

6 (b) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY

7 OF THE DIRECTORS, TRUSTEES, OR GENERAL PARTNERS OF THE ENTITY OR

8 OF INDIVIDUALS EXERCISING SIMILAR FUNCTIONS; OR

9 (c) THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A

10 CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF THE

11 ENTITY AS DETERMINED BY THE APPLICABLE PRUDENTIAL REGULATOR, AS

12 THAT TERM IS DEFINED IN 12 U.S.C. SEC. 5481 (24), IF ANY.

13 (2) "AUTHENTICATE" MEANS TO USE REASONABLE MEANS TO

14 DETERMINE THAT A REQUEST TO EXERCISE ANY OF THE RIGHTS IN SECTION

15 6-1-1306 (1) IS BEING MADE BY OR ON BEHALF OF THE CONSUMER WHO IS

16 ENTITLED TO EXERCISE THE RIGHTS.

17 (3) "BUSINESS ASSOCIATE" HAS THE MEANING ESTABLISHED IN 45

18 CFR 160.103.

19 (4) "CHILD" MEANS AN INDIVIDUAL UNDER THIRTEEN YEARS OF

20 AGE.

21 (5) "CONSENT" MEANS A CLEAR, AFFIRMATIVE ACT SIGNIFYING A

22 CONSUMER'S FREELY GIVEN, SPECIFIC, INFORMED, AND UNAMBIGUOUS

23 AGREEMENT, SUCH AS BY A WRITTEN STATEMENT, INCLUDING BY

24 ELECTRONIC MEANS, OR OTHER CLEAR, AFFIRMATIVE ACTION BY WHICH

25 THE CONSUMER SIGNIFIES AGREEMENT TO THE PROCESSING OF PERSONAL

26 DATA. THE FOLLOWING DOES NOT CONSTITUTE CONSENT:

27 (a) ACCEPTANCE OF A GENERAL OR BROAD TERMS OF USE OR

1 SIMILAR DOCUMENT THAT CONTAINS DESCRIPTIONS OF PERSONAL DATA  
2 PROCESSING ALONG WITH OTHER, UNRELATED INFORMATION;  
3 (b) HOVERING OVER, MUTING, PAUSING, OR CLOSING A GIVEN PIECE  
4 OF CONTENT; AND  
5 (c) AGREEMENT OBTAINED THROUGH DARK PATTERNS.  
6 (6) "CONSUMER":  
7 (a) MEANS AN INDIVIDUAL WHO IS A COLORADO RESIDENT ACTING  
8 ONLY IN AN INDIVIDUAL OR HOUSEHOLD CONTEXT; AND  
9 (b) DOES NOT INCLUDE AN INDIVIDUAL ACTING IN A COMMERCIAL  
10 OR EMPLOYMENT CONTEXT, AS A JOB APPLICANT, OR AS A BENEFICIARY OF  
11 SOMEONE ACTING IN AN EMPLOYMENT CONTEXT.  
12 (7) "CONTROLLER" MEANS A PERSON THAT, ALONE OR JOINTLY  
13 WITH OTHERS, DETERMINES THE PURPOSES FOR AND MEANS OF PROCESSING  
14 PERSONAL DATA.  
15 (8) "COVERED ENTITY" HAS THE MEANING ESTABLISHED IN 45 CFR  
16 160.103.  
17 (9) "DARK PATTERN" MEANS A USER INTERFACE DESIGNED OR  
18 MANIPULATED WITH THE SUBSTANTIAL EFFECT OF SUBVERTING OR  
19 IMPAIRING USER AUTONOMY, DECISION MAKING, OR CHOICE.  
20 (10) "DECISIONS THAT PRODUCE LEGAL OR SIMILARLY SIGNIFICANT  
21 EFFECTS CONCERNING A CONSUMER" MEANS A DECISION THAT RESULTS IN  
22 THE PROVISION OR DENIAL OF FINANCIAL OR LENDING SERVICES, HOUSING,  
23 INSURANCE, EDUCATION ENROLLMENT OR OPPORTUNITY, CRIMINAL  
24 JUSTICE, EMPLOYMENT OPPORTUNITIES, HEALTH-CARE SERVICES, OR  
25 ACCESS TO ESSENTIAL GOODS OR SERVICES.  
26 (11) "DE-IDENTIFIED DATA" MEANS DATA THAT CANNOT  
27 REASONABLY BE USED TO INFER INFORMATION ABOUT, OR OTHERWISE BE

1 LINKED TO, AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL, OR A DEVICE  
2 LINKED TO SUCH AN INDIVIDUAL, IF THE CONTROLLER THAT POSSESSES THE  
3 DATA:

4 (a) TAKES REASONABLE MEASURES TO ENSURE THAT THE DATA  
5 CANNOT BE ASSOCIATED WITH AN INDIVIDUAL;

6 (b) PUBLICLY COMMITS TO MAINTAIN AND USE THE DATA ONLY IN  
7 A DE-IDENTIFIED FASHION AND NOT ATTEMPT TO RE-IDENTIFY THE DATA;  
8 AND

9 (c) CONTRACTUALLY OBLIGATES ANY RECIPIENTS OF THE  
10 INFORMATION TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION  
11 (11).

12 (12) "HEALTH-CARE FACILITY" MEANS ANY ENTITY THAT IS  
13 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED OR PERMITTED BY LAW  
14 TO ADMINISTER MEDICAL TREATMENT IN THIS STATE.

15 (13) "HEALTH-CARE INFORMATION" MEANS INDIVIDUALLY  
16 IDENTIFIABLE INFORMATION RELATING TO THE PAST, PRESENT, OR FUTURE  
17 HEALTH STATUS OF AN INDIVIDUAL.

18 (14) "HEALTH-CARE PROVIDER" MEANS A PERSON LICENSED,  
19 CERTIFIED, OR REGISTERED IN THIS STATE TO PRACTICE MEDICINE,  
20 PHARMACY, CHIROPRACTIC, NURSING, PHYSICAL THERAPY, PODIATRY,  
21 DENTISTRY, OPTOMETRY, OCCUPATIONAL THERAPY, OR OTHER HEALING  
22 ARTS UNDER TITLE 12.

23 (15) "HIPAA" MEANS THE FEDERAL "HEALTH INSURANCE  
24 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", AS AMENDED, 42  
25 U.S.C. SECS. 1320d TO 1320d-9.

26 (16) "IDENTIFIED OR IDENTIFIABLE INDIVIDUAL" MEANS AN  
27 INDIVIDUAL WHO CAN BE READILY IDENTIFIED, DIRECTLY OR INDIRECTLY,

1 IN PARTICULAR BY REFERENCE TO AN IDENTIFIER SUCH AS A NAME, AN  
2 IDENTIFICATION NUMBER, SPECIFIC GEOLOCATION DATA, OR AN ONLINE  
3 IDENTIFIER.

4 (17) "PERSONAL DATA":

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

7 (b) DOES NOT INCLUDE DE-IDENTIFIED DATA OR PUBLICLY  
8 AVAILABLE INFORMATION. AS USED IN THIS SUBSECTION (17)(b),  
9 "PUBLICLY AVAILABLE INFORMATION" MEANS INFORMATION THAT IS  
10 LAWFULLY MADE AVAILABLE FROM FEDERAL, STATE, OR LOCAL  
11 GOVERNMENT RECORDS AND INFORMATION THAT A CONTROLLER HAS A  
12 REASONABLE BASIS TO BELIEVE THE CONSUMER HAS LAWFULLY MADE  
13 AVAILABLE TO THE GENERAL PUBLIC.

14 (18) "PROCESS" OR "PROCESSING" MEANS THE COLLECTION, USE,  
15 SALE, STORAGE, DISCLOSURE, ANALYSIS, DELETION, OR MODIFICATION OF  
16 PERSONAL DATA AND INCLUDES THE ACTIONS OF A CONTROLLER  
17 DIRECTING A PROCESSOR TO PROCESS PERSONAL DATA.

18 (19) "PROCESSOR" MEANS A PERSON THAT PROCESSES PERSONAL  
19 DATA ON BEHALF OF A CONTROLLER.

20 (20) "PROFILING" MEANS ANY FORM OF AUTOMATED PROCESSING  
21 OF PERSONAL DATA TO EVALUATE, ANALYZE, OR PREDICT PERSONAL  
22 ASPECTS CONCERNING AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL'S  
23 ECONOMIC SITUATION, HEALTH, PERSONAL PREFERENCES, INTERESTS,  
24 RELIABILITY, BEHAVIOR, LOCATION, OR MOVEMENTS.

25 (21) "PROTECTED HEALTH INFORMATION" HAS THE MEANING  
26 ESTABLISHED IN 45 CFR 160.103.

27 (22) "PSEUDONYMOUS DATA" MEANS PERSONAL DATA THAT CAN

1 NO LONGER BE ATTRIBUTED TO A SPECIFIC INDIVIDUAL WITHOUT THE USE  
2 OF ADDITIONAL INFORMATION IF THE ADDITIONAL INFORMATION IS KEPT  
3 SEPARATELY AND IS SUBJECT TO TECHNICAL AND ORGANIZATIONAL  
4 MEASURES TO ENSURE THAT THE PERSONAL DATA ARE NOT ATTRIBUTED  
5 TO A SPECIFIC INDIVIDUAL.

6 (23) (a) "SALE", "SELL", OR "SOLD" MEANS THE EXCHANGE OF  
7 PERSONAL DATA FOR MONETARY OR OTHER VALUABLE CONSIDERATION BY  
8 A CONTROLLER TO A THIRD PARTY.

9 (b) "SALE", "SELL", OR "SOLD" DOES NOT INCLUDE THE  
10 FOLLOWING:

11 (I) THE DISCLOSURE OF PERSONAL DATA TO A PROCESSOR THAT  
12 PROCESSES THE PERSONAL DATA ON BEHALF OF A CONTROLLER;

13 (II) THE DISCLOSURE OF PERSONAL DATA TO A THIRD PARTY FOR  
14 PURPOSES OF PROVIDING A PRODUCT OR SERVICE REQUESTED BY THE  
15 CONSUMER;

16 (III) THE DISCLOSURE OR TRANSFER OF PERSONAL DATA TO AN  
17 AFFILIATE OF THE CONTROLLER;

18 (IV) THE DISCLOSURE OR TRANSFER TO A THIRD PARTY OF  
19 PERSONAL DATA AS AN ASSET THAT IS PART OF A PROPOSED OR ACTUAL  
20 MERGER, ACQUISITION, BANKRUPTCY, OR OTHER TRANSACTION IN WHICH  
21 THE THIRD PARTY ASSUMES CONTROL OF ALL OR PART OF THE  
22 CONTROLLER'S ASSETS; OR

23 (V) THE DISCLOSURE OF PERSONAL DATA:

24 (A) THAT A CONSUMER DIRECTS THE CONTROLLER TO DISCLOSE OR  
25 INTENTIONALLY DISCLOSES BY USING THE CONTROLLER TO INTERACT WITH  
26 A THIRD PARTY; OR

27 (B) INTENTIONALLY MADE AVAILABLE BY A CONSUMER TO THE

1 GENERAL PUBLIC VIA A CHANNEL OF MASS MEDIA.

2 (24) "SENSITIVE DATA" MEANS:

3 (a) PERSONAL DATA REVEALING RACIAL OR ETHNIC ORIGIN,

4 RELIGIOUS BELIEFS, A MENTAL OR PHYSICAL HEALTH CONDITION OR

5 DIAGNOSIS, SEX LIFE OR SEXUAL ORIENTATION, OR CITIZENSHIP OR

6 CITIZENSHIP STATUS;

7 (b) GENETIC OR BIOMETRIC DATA THAT MAY BE PROCESSED FOR

8 THE PURPOSE OF UNIQUELY IDENTIFYING AN INDIVIDUAL; OR

9 (c) PERSONAL DATA FROM A KNOWN CHILD.

10 (25) "TARGETED ADVERTISING":

11 (a) MEANS DISPLAYING TO A CONSUMER AN ADVERTISEMENT THAT

12 IS SELECTED BASED ON PERSONAL DATA OBTAINED OR INFERRED OVER

13 TIME FROM THE CONSUMER'S ACTIVITIES ACROSS NONAFFILIATED

14 WEBSITES, APPLICATIONS, OR ONLINE SERVICES TO PREDICT CONSUMER

15 PREFERENCES OR INTERESTS; AND

16 (b) DOES NOT INCLUDE:

17 (I) ADVERTISING TO A CONSUMER IN RESPONSE TO THE

18 CONSUMER'S REQUEST FOR INFORMATION OR FEEDBACK;

19 (II) ADVERTISEMENTS BASED ON ACTIVITIES WITHIN A

20 CONTROLLER'S OWN WEBSITES OR ONLINE APPLICATIONS;

21 (III) ADVERTISEMENTS BASED ON THE CONTEXT OF A CONSUMER'S

22 CURRENT SEARCH QUERY, VISIT TO A WEBSITE, OR ONLINE APPLICATION;

23 OR

24 (IV) PROCESSING PERSONAL DATA SOLELY FOR MEASURING OR

25 REPORTING ADVERTISING PERFORMANCE, REACH, OR FREQUENCY.

26 (26) "THIRD PARTY" MEANS A PERSON, PUBLIC AUTHORITY,

27 AGENCY, OR BODY OTHER THAN A CONSUMER, CONTROLLER, PROCESSOR,

1 OR AFFILIATE OF THE PROCESSOR OR THE CONTROLLER.

2 **6-1-1304. Applicability of part. (1)** EXCEPT AS SPECIFIED IN  
3 SUBSECTION (2) OF THIS SECTION, THIS PART 13 APPLIES TO A CONTROLLER  
4 THAT:

5 (a) CONDUCTS BUSINESS IN COLORADO OR PRODUCES OR DELIVERS  
6 COMMERCIAL PRODUCTS OR SERVICES THAT ARE INTENTIONALLY  
7 TARGETED TO RESIDENTS OF COLORADO; AND

8 (b) SATISFIES ONE OR BOTH OF THE FOLLOWING THRESHOLDS:

9 (I) CONTROLS OR PROCESSES THE PERSONAL DATA OF ONE  
10 HUNDRED THOUSAND CONSUMERS OR MORE DURING A CALENDAR YEAR;

11 OR

12 (II) DERIVES REVENUE OR RECEIVES A DISCOUNT ON THE PRICE OF  
13 GOODS OR SERVICES FROM THE SALE OF PERSONAL DATA AND PROCESSES  
14 OR CONTROLS THE PERSONAL DATA OF TWENTY-FIVE THOUSAND  
15 CONSUMERS OR MORE.

16 (2) THIS PART 13 DOES NOT APPLY TO:

17 (a) PROTECTED HEALTH INFORMATION THAT IS COLLECTED,  
18 STORED, AND PROCESSED BY A COVERED ENTITY OR ITS BUSINESS  
19 ASSOCIATES;

20 (b) HEALTH-CARE INFORMATION THAT IS GOVERNED BY PART 8 OF  
21 ARTICLE 1 OF TITLE 25 SOLELY FOR THE PURPOSE OF ACCESS TO MEDICAL  
22 RECORDS;

23 (c) PATIENT IDENTIFYING INFORMATION, AS DEFINED IN 42 CFR  
24 2.11, THAT ARE GOVERNED BY AND COLLECTED AND PROCESSED  
25 PURSUANT TO 42 CFR 2, ESTABLISHED PURSUANT TO 42 U.S.C. SEC.  
26 290dd-2;

27 (d) IDENTIFIABLE PRIVATE INFORMATION, AS DEFINED IN 45 CFR

1 46.102, FOR PURPOSES OF THE FEDERAL POLICY FOR THE PROTECTION OF  
2 HUMAN SUBJECTS PURSUANT TO 45 CFR 46; IDENTIFIABLE PRIVATE  
3 INFORMATION THAT IS COLLECTED AS PART OF HUMAN SUBJECTS  
4 RESEARCH PURSUANT TO THE ICH E6 GOOD CLINICAL PRACTICE  
5 GUIDELINE ISSUED BY THE INTERNATIONAL COUNCIL FOR  
6 HARMONISATION OF TECHNICAL REQUIREMENTS FOR PHARMACEUTICALS  
7 FOR HUMAN USE OR THE PROTECTION OF HUMAN SUBJECTS UNDER 21 CFR  
8 50 AND 56; OR PERSONAL DATA USED OR SHARED IN RESEARCH  
9 CONDUCTED IN ACCORDANCE WITH ONE OR MORE OF THE CATEGORIES SET  
10 FORTH IN THIS SUBSECTION (2)(d);

11 (e) INFORMATION AND DOCUMENTS CREATED BY A COVERED  
12 ENTITY FOR PURPOSES OF COMPLYING WITH HIPAA AND ITS  
13 IMPLEMENTING REGULATIONS;

14 (f) PATIENT SAFETY WORK PRODUCT, AS DEFINED IN 42 CFR 3.20,  
15 THAT IS CREATED FOR PURPOSES OF PATIENT SAFETY IMPROVEMENT  
16 PURSUANT TO 42 CFR 3, ESTABLISHED PURSUANT TO 42 U.S.C. SECS.  
17 299b-21 TO 299b-26;

18 (g) INFORMATION THAT IS:

19 (I) DE-IDENTIFIED IN ACCORDANCE WITH THE REQUIREMENTS FOR  
20 DE-IDENTIFICATION SET FORTH IN 45 CFR 164; AND

21 (II) DERIVED FROM ANY OF THE HEALTH-CARE-RELATED  
22 INFORMATION DESCRIBED IN THIS SECTION.

23 (h) INFORMATION MAINTAINED IN THE SAME MANNER AS  
24 INFORMATION UNDER SUBSECTIONS (2)(a) TO (2)(g) OF THIS SECTION BY:

25 (I) A COVERED ENTITY OR BUSINESS ASSOCIATE;

26 (II) A HEALTH-CARE FACILITY OR HEALTH-CARE PROVIDER; OR

27 (III) A PROGRAM OF A QUALIFIED SERVICE ORGANIZATION AS

1     DEFINED IN 42 CFR 2.11;

2             (i) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(i)(II) OF THIS  
3     SECTION, AN ACTIVITY INVOLVING THE COLLECTION, MAINTENANCE,  
4     DISCLOSURE, SALE, COMMUNICATION, OR USE OF ANY PERSONAL DATA  
5     BEARING ON A CONSUMER'S CREDITWORTHINESS, CREDIT STANDING,  
6     CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL  
7     CHARACTERISTICS, OR MODE OF LIVING BY:

8             (A) A CONSUMER REPORTING AGENCY AS DEFINED IN 15 U.S.C.  
9     SEC. 1681a (f);

10            (B) A FURNISHER OF INFORMATION AS SET FORTH IN 15 U.S.C. SEC.  
11     1681s-2 THAT PROVIDES INFORMATION FOR USE IN A CONSUMER REPORT,  
12     AS DEFINED IN 15 U.S.C. SEC. 1681a (d); OR

13            (C) A USER OF A CONSUMER REPORT AS SET FORTH IN 15 U.S.C.  
14     SEC. 1681b.

15            (II) THIS SUBSECTION (2)(i) APPLIES ONLY TO THE EXTENT THAT  
16     THE ACTIVITY IS REGULATED BY THE FEDERAL "FAIR CREDIT REPORTING  
17     ACT", 15 U.S.C. SEC. 1681 ET SEQ., AS AMENDED, AND THE PERSONAL  
18     DATA ARE NOT COLLECTED, MAINTAINED, DISCLOSED, SOLD,  
19     COMMUNICATED, OR USED EXCEPT AS AUTHORIZED BY THE FEDERAL "FAIR  
20     CREDIT REPORTING ACT", AS AMENDED.

21            (j) PERSONAL DATA:

22            (I) COLLECTED AND MAINTAINED FOR PURPOSES OF ARTICLE 22 OF  
23     TITLE 10;

24            (II) COLLECTED, PROCESSED, SOLD, OR DISCLOSED PURSUANT TO  
25     THE FEDERAL "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET  
26     SEQ., AS AMENDED, AND IMPLEMENTING REGULATIONS, IF THE  
27     COLLECTION, PROCESSING, SALE, OR DISCLOSURE IS IN COMPLIANCE WITH

1     THAT LAW;

2             (III) COLLECTED, PROCESSED, SOLD, OR DISCLOSED PURSUANT TO  
3     THE FEDERAL "DRIVER'S PRIVACY PROTECTION ACT OF 1994", 18 U.S.C.  
4     SEC. 2721 ET SEQ., AS AMENDED, IF THE COLLECTION, PROCESSING, SALE,  
5     OR DISCLOSURE IS REGULATED BY THAT LAW, INCLUDING IMPLEMENTING  
6     RULES, REGULATIONS, OR EXEMPTIONS;

7             (IV) REGULATED BY THE FEDERAL "CHILDREN'S ONLINE PRIVACY  
8     PROTECTION ACT OF 1998", 15 U.S.C. SECS. 6501 TO 6506, AS AMENDED,  
9     IF COLLECTED, PROCESSED, AND MAINTAINED IN COMPLIANCE WITH THAT  
10    LAW; OR

11            (V) REGULATED BY THE FEDERAL "FAMILY EDUCATIONAL RIGHTS  
12    AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g ET SEQ., AS AMENDED,  
13    AND ITS IMPLEMENTING REGULATIONS;

14            (k) DATA MAINTAINED FOR EMPLOYMENT RECORDS PURPOSES;

15            (l) AN AIR CARRIER AS DEFINED IN AND REGULATED UNDER 49  
16    U.S.C. SEC. 40101 ET SEQ., AS AMENDED, AND 49 U.S.C. SEC. 41713, AS  
17    AMENDED;

18            (m) A NATIONAL SECURITIES ASSOCIATION REGISTERED PURSUANT  
19    TO THE FEDERAL "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC.  
20    78o-3, AS AMENDED, OR IMPLEMENTING REGULATIONS;

21            (n) CUSTOMER DATA MAINTAINED BY A PUBLIC UTILITY AS  
22    DEFINED IN SECTION 40-1-103 (1)(a)(I) OR AN AUTHORITY AS DEFINED IN  
23    SECTION 43-4-503 (1), IF THE DATA ARE NOT COLLECTED, MAINTAINED,  
24    DISCLOSED, SOLD, COMMUNICATED, OR USED EXCEPT AS AUTHORIZED BY  
25    STATE AND FEDERAL LAW;

26            (o) DATA MAINTAINED BY A STATE INSTITUTION OF HIGHER  
27    EDUCATION, AS DEFINED IN SECTION 23-18-102 (10), THE STATE, THE

1 JUDICIAL DEPARTMENT OF THE STATE, OR A COUNTY, CITY AND COUNTY,  
2 OR MUNICIPALITY IF THE DATA IS COLLECTED, MAINTAINED, DISCLOSED,  
3 COMMUNICATED, AND USED AS AUTHORIZED BY STATE AND FEDERAL LAW  
4 FOR NONCOMMERCIAL PURPOSES. THIS SUBSECTION (2)(o) DOES NOT  
5 EFFECT ANY OTHER EXEMPTION AVAILABLE UNDER THIS PART 13.

6 (p) INFORMATION USED AND DISCLOSED IN COMPLIANCE WITH 45  
7 CFR 164.512; OR

8 (q) A FINANCIAL INSTITUTION OR AN AFFILIATE OF A FINANCIAL  
9 INSTITUTION AS DEFINED BY AND THAT IS SUBJECT TO THE FEDERAL  
10 "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. SEC. 6801 ET SEQ., AS  
11 AMENDED, AND IMPLEMENTING REGULATIONS, INCLUDING REGULATION  
12 P, 12 CFR 1016.

13 (3) THE OBLIGATIONS IMPOSED ON CONTROLLERS OR PROCESSORS  
14 UNDER THIS PART 13 DO NOT:

15 (a) RESTRICT A CONTROLLER'S OR PROCESSOR'S ABILITY TO:

16 (I) COMPLY WITH FEDERAL, STATE, OR LOCAL LAWS, RULES, OR  
17 REGULATIONS;

18 (II) COMPLY WITH A CIVIL, CRIMINAL, OR REGULATORY INQUIRY,  
19 INVESTIGATION, SUBPOENA, OR SUMMONS BY FEDERAL, STATE, LOCAL, OR  
20 OTHER GOVERNMENTAL AUTHORITIES;

21 (III) COOPERATE WITH LAW ENFORCEMENT AGENCIES CONCERNING  
22 CONDUCT OR ACTIVITY THAT THE CONTROLLER OR PROCESSOR  
23 REASONABLY AND IN GOOD FAITH BELIEVES MAY VIOLATE FEDERAL,  
24 STATE, OR LOCAL LAW;

25 (IV) INVESTIGATE, EXERCISE, PREPARE FOR, OR DEFEND ACTUAL  
26 OR ANTICIPATED LEGAL CLAIMS;

27 (V) CONDUCT INTERNAL RESEARCH TO IMPROVE, REPAIR, OR

1     DEVELOP PRODUCTS, SERVICES, OR TECHNOLOGY;

2             (VI) IDENTIFY AND REPAIR TECHNICAL ERRORS THAT IMPAIR  
3     EXISTING OR INTENDED FUNCTIONALITY;

4             (VII) PERFORM INTERNAL OPERATIONS THAT ARE REASONABLY  
5     ALIGNED WITH THE EXPECTATIONS OF THE CONSUMER BASED ON THE  
6     CONSUMER'S EXISTING RELATIONSHIP WITH THE CONTROLLER;

7             (VIII) PROVIDE A PRODUCT OR SERVICE SPECIFICALLY REQUESTED  
8     BY A CONSUMER OR THE PARENT OR GUARDIAN OF A CHILD, PERFORM A  
9     CONTRACT TO WHICH THE CONSUMER IS A PARTY, OR TAKE STEPS AT THE  
10    REQUEST OF THE CONSUMER PRIOR TO ENTERING INTO A CONTRACT;

11            (IX) PROTECT THE VITAL INTERESTS OF THE CONSUMER OR OF  
12    ANOTHER INDIVIDUAL;

13            (X) PREVENT, DETECT, PROTECT AGAINST, OR RESPOND TO  
14    SECURITY INCIDENTS, IDENTITY THEFT, FRAUD, HARASSMENT, OR  
15    MALICIOUS, DECEPTIVE, OR ILLEGAL ACTIVITY; PRESERVE THE INTEGRITY  
16    OR SECURITY OF SYSTEMS; OR INVESTIGATE, REPORT, OR PROSECUTE  
17    THOSE RESPONSIBLE FOR ANY SUCH ACTION;

18            (XI) PROCESS PERSONAL DATA FOR REASONS OF PUBLIC INTEREST  
19    IN THE AREA OF PUBLIC HEALTH, BUT SOLELY TO THE EXTENT THAT THE  
20    PROCESSING:

21            (A) IS SUBJECT TO SUITABLE AND SPECIFIC MEASURES TO  
22    SAFEGUARD THE RIGHTS OF THE CONSUMER WHOSE PERSONAL DATA ARE  
23    PROCESSED; AND

24            (B) IS UNDER THE RESPONSIBILITY OF A PROFESSIONAL SUBJECT TO  
25    CONFIDENTIALITY OBLIGATIONS UNDER FEDERAL, STATE, OR LOCAL LAW;  
26    OR

27            (XII) ASSIST ANOTHER PERSON WITH ANY OF THE ACTIVITIES SET

1     FORTH IN THIS SUBSECTION (3):

2             (b) APPLY WHERE COMPLIANCE BY THE CONTROLLER OR  
3     PROCESSOR WITH THIS PART 13 WOULD VIOLATE AN EVIDENTIARY  
4     PRIVILEGE UNDER COLORADO LAW;

5             (c) PREVENT A CONTROLLER OR PROCESSOR FROM PROVIDING  
6     PERSONAL DATA CONCERNING A CONSUMER TO A PERSON COVERED BY AN  
7     EVIDENTIARY PRIVILEGE UNDER COLORADO LAW AS PART OF A PRIVILEGED  
8     COMMUNICATION;

9             (d) APPLY TO INFORMATION MADE AVAILABLE BY A THIRD PARTY  
10    THAT THE CONTROLLER HAS A RESONABLE BASIS TO BELIEVE IS  
11    PROTECTED SPEECH PURSUANT TO APPLICABLE LAW; AND

12            (e) APPLY TO THE PROCESSING OF PERSONAL DATA BY AN  
13    INDIVIDUAL IN THE COURSE OF A PURELY PERSONAL OR HOUSEHOLD  
14    ACTIVITY.

15            (4) PERSONAL DATA THAT ARE PROCESSED BY A CONTROLLER  
16    PURSUANT TO AN EXCEPTION PROVIDED BY THIS SECTION:

17            (a) SHALL NOT BE PROCESSED FOR ANY PURPOSE OTHER THAN A  
18    PURPOSE EXPRESSLY LISTED IN THIS SECTION OR AS OTHERWISE  
19    AUTHORIZED BY THIS PART 13; AND

20            (b) SHALL BE PROCESSED SOLELY TO THE EXTENT THAT THE  
21    PROCESSING IS NECESSARY, REASONABLE, AND PROPORTIONATE TO THE  
22    SPECIFIC PURPOSE OR PURPOSES LISTED IN THIS SECTION OR AS OTHERWISE  
23    AUTHORIZED BY THIS PART 13.

24            (5) IF A CONTROLLER PROCESSES PERSONAL DATA PURSUANT TO  
25    AN EXEMPTION IN THIS SECTION, THE CONTROLLER BEARS THE BURDEN OF  
26    DEMONSTRATING THAT THE PROCESSING QUALIFIES FOR THE EXEMPTION  
27    AND COMPLIES WITH THE REQUIREMENTS IN SUBSECTION (4) OF THIS

1 SECTION.

2 **6-1-1305. Responsibility according to role. (1) CONTROLLERS**  
3 AND PROCESSORS SHALL MEET THEIR RESPECTIVE OBLIGATIONS  
4 ESTABLISHED UNDER THIS PART 13.

5 (2) PROCESSORS SHALL ADHERE TO THE INSTRUCTIONS OF THE  
6 CONTROLLER AND ASSIST THE CONTROLLER TO MEET ITS OBLIGATIONS  
7 UNDER THIS PART 13. TAKING INTO ACCOUNT THE NATURE OF PROCESSING  
8 AND THE INFORMATION AVAILABLE TO THE PROCESSOR, THE PROCESSOR  
9 SHALL ASSIST THE CONTROLLER BY:

10 (a) TAKING APPROPRIATE TECHNICAL AND ORGANIZATIONAL  
11 MEASURES, INsofar AS THIS IS POSSIBLE, FOR THE FULFILLMENT OF THE  
12 CONTROLLER'S OBLIGATION TO RESPOND TO CONSUMER REQUESTS TO  
13 EXERCISE THEIR RIGHTS PURSUANT TO SECTION 6-1-1306;

14 (b) HELPING TO MEET THE CONTROLLER'S OBLIGATIONS IN  
15 RELATION TO THE SECURITY OF PROCESSING THE PERSONAL DATA AND IN  
16 RELATION TO THE NOTIFICATION OF A BREACH OF THE SECURITY OF THE  
17 SYSTEM PURSUANT TO SECTION 6-1-716; AND

18 (c) PROVIDING INFORMATION TO THE CONTROLLER NECESSARY TO  
19 ENABLE THE CONTROLLER TO CONDUCT AND DOCUMENT ANY DATA  
20 PROTECTION ASSESSMENTS REQUIRED BY SECTION 6-1-1309. THE  
21 CONTROLLER AND PROCESSOR ARE EACH RESPONSIBLE FOR ONLY THE  
22 MEASURES ALLOCATED TO THEM.

23 (3) NOTWITHSTANDING THE INSTRUCTIONS OF THE CONTROLLER,  
24 A PROCESSOR SHALL:

25 (a) ENSURE THAT EACH PERSON PROCESSING THE PERSONAL DATA  
26 IS SUBJECT TO A DUTY OF CONFIDENTIALITY WITH RESPECT TO THE DATA;  
27 AND

1           (b) ENGAGE A SUBCONTRACTOR ONLY AFTER PROVIDING THE  
2           CONTROLLER WITH AN OPPORTUNITY TO OBJECT AND PURSUANT TO A  
3           WRITTEN CONTRACT IN ACCORDANCE WITH SUBSECTION (5) OF THIS  
4           SECTION THAT REQUIRES THE SUBCONTRACTOR TO MEET THE OBLIGATIONS  
5           OF THE PROCESSOR WITH RESPECT TO THE PERSONAL DATA.

6           (4) TAKING INTO ACCOUNT THE CONTEXT OF PROCESSING, THE  
7           CONTROLLER AND THE PROCESSOR SHALL IMPLEMENT APPROPRIATE  
8           TECHNICAL AND ORGANIZATIONAL MEASURES TO ENSURE A LEVEL OF  
9           SECURITY APPROPRIATE TO THE RISK AND ESTABLISH A CLEAR  
10          ALLOCATION OF THE RESPONSIBILITIES BETWEEN THEM TO IMPLEMENT THE  
11          MEASURES.

12          (5) PROCESSING BY A PROCESSOR MUST BE GOVERNED BY A  
13          CONTRACT BETWEEN THE CONTROLLER AND THE PROCESSOR THAT IS  
14          BINDING ON BOTH PARTIES AND THAT SETS OUT:

15          (a) THE PROCESSING INSTRUCTIONS TO WHICH THE PROCESSOR IS  
16          BOUND, INCLUDING THE NATURE AND PURPOSE OF THE PROCESSING;

17          (b) THE TYPE OF PERSONAL DATA SUBJECT TO THE PROCESSING,  
18          AND THE DURATION OF THE PROCESSING;

19          (c) THE REQUIREMENTS IMPOSED BY THIS SUBSECTION (5) AND  
20          SUBSECTIONS (3) AND (4) OF THIS SECTION; AND

21          (d) THE FOLLOWING REQUIREMENTS:

22          (I) AT THE CHOICE OF THE CONTROLLER, THE PROCESSOR SHALL  
23          DELETE OR RETURN ALL PERSONAL DATA TO THE CONTROLLER AS  
24          REQUESTED AT THE END OF THE PROVISION OF SERVICES, UNLESS  
25          RETENTION OF THE PERSONAL DATA IS REQUIRED BY LAW;

26          (II) (A) THE PROCESSOR SHALL MAKE AVAILABLE TO THE  
27          CONTROLLER ALL INFORMATION NECESSARY TO DEMONSTRATE

1 COMPLIANCE WITH THE OBLIGATIONS IN THIS PART 13; AND  
2 (B) THE PROCESSOR SHALL ALLOW FOR, AND CONTRIBUTE TO,  
3 REASONABLE AUDITS AND INSPECTIONS BY THE CONTROLLER OR THE  
4 CONTROLLER'S DESIGNATED AUDITOR. ALTERNATIVELY, THE PROCESSOR  
5 MAY, WITH THE CONTROLLER'S CONSENT, ARRANGE FOR A QUALIFIED AND  
6 INDEPENDENT AUDITOR TO CONDUCT, AT LEAST ANNUALLY AND AT THE  
7 PROCESSOR'S EXPENSE, AN AUDIT OF THE PROCESSOR'S POLICIES AND  
8 TECHNICAL AND ORGANIZATIONAL MEASURES IN SUPPORT OF THE  
9 OBLIGATIONS UNDER THIS PART 13 USING AN APPROPRIATE AND ACCEPTED  
10 CONTROL STANDARD OR FRAMEWORK AND AUDIT PROCEDURE FOR THE  
11 AUDITS AS APPLICABLE. THE PROCESSOR SHALL PROVIDE A REPORT OF THE  
12 AUDIT TO THE CONTROLLER UPON REQUEST.

13 (6) IN NO EVENT MAY A CONTRACT RELIEVE A CONTROLLER OR A  
14 PROCESSOR FROM THE LIABILITIES IMPOSED ON THEM BY VIRTUE OF ITS  
15 ROLE IN THE PROCESSING RELATIONSHIP AS DEFINED BY THIS PART 13.

16 (7) DETERMINING WHETHER A PERSON IS ACTING AS A  
17 CONTROLLER OR PROCESSOR WITH RESPECT TO A SPECIFIC PROCESSING OF  
18 DATA IS A FACT-BASED DETERMINATION THAT DEPENDS UPON THE  
19 CONTEXT IN WHICH PERSONAL DATA ARE TO BE PROCESSED. A PERSON  
20 THAT IS NOT LIMITED IN ITS PROCESSING OF PERSONAL DATA PURSUANT TO  
21 A CONTROLLER'S INSTRUCTIONS, OR THAT FAILS TO ADHERE TO THE  
22 INSTRUCTIONS, IS A CONTROLLER AND NOT A PROCESSOR WITH RESPECT TO  
23 A SPECIFIC PROCESSING OF DATA. A PROCESSOR THAT CONTINUES TO  
24 ADHERE TO A CONTROLLER'S INSTRUCTIONS WITH RESPECT TO A SPECIFIC  
25 PROCESSING OF PERSONAL DATA REMAINS A PROCESSOR. IF A PROCESSOR  
26 BEGINS, ALONE OR JOINTLY WITH OTHERS, DETERMINING THE PURPOSES  
27 AND MEANS OF THE PROCESSING OF PERSONAL DATA, IT IS A CONTROLLER

1 WITH RESPECT TO THE PROCESSING.

2 (8) (a) A CONTROLLER OR PROCESSOR THAT DISCLOSES PERSONAL  
3 DATA TO ANOTHER CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THIS  
4 PART 13 DOES NOT VIOLATE THIS PART 13 IF THE RECIPIENT PROCESSES THE  
5 PERSONAL DATA IN VIOLATION OF THIS PART 13, AND, AT THE TIME OF  
6 DISCLOSING THE PERSONAL DATA, THE DISCLOSING CONTROLLER OR  
7 PROCESSOR DID NOT HAVE ACTUAL KNOWLEDGE THAT THE RECIPIENT  
8 INTENDED TO COMMIT A VIOLATION.

9 (b) A CONTROLLER OR PROCESSOR RECEIVING PERSONAL DATA  
10 FROM A CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THIS PART 13  
11 AS SPECIFIED IN SUBSECTION (8)(a) OF THIS SECTION DOES NOT VIOLATE  
12 THIS PART 13 IF THE CONTROLLER OR PROCESSOR FROM WHICH IT RECEIVES  
13 THE PERSONAL DATA FAILS TO COMPLY WITH APPLICABLE OBLIGATIONS  
14 UNDER THIS PART 13.

15 **6-1-1306. Consumer personal data rights - repeal.**

16 (1) CONSUMERS MAY EXERCISE THE FOLLOWING RIGHTS BY SUBMITTING  
17 A REQUEST USING THE METHODS SPECIFIED BY THE CONTROLLER IN THE  
18 PRIVACY NOTICE REQUIRED UNDER SECTION 6-1-1308 (1)(a). THE METHOD  
19 MUST TAKE INTO ACCOUNT THE WAYS IN WHICH CONSUMERS NORMALLY  
20 INTERACT WITH THE CONTROLLER, THE NEED FOR SECURE AND RELIABLE  
21 COMMUNICATION RELATING TO THE REQUEST, AND THE ABILITY OF THE  
22 CONTROLLER TO AUTHENTICATE THE IDENTITY OF THE CONSUMER MAKING  
23 THE REQUEST. CONTROLLERS SHALL NOT REQUIRE A CONSUMER TO  
24 CREATE A NEW ACCOUNT IN ORDER TO EXERCISE CONSUMER RIGHTS  
25 PURSUANT TO THIS SECTION BUT MAY REQUIRE A CONSUMER TO USE AN  
26 EXISTING ACCOUNT. A CONSUMER MAY SUBMIT A REQUEST AT ANY TIME  
27 TO A CONTROLLER SPECIFYING WHICH OF THE FOLLOWING RIGHTS THE

1     CONSUMER WISHES TO EXERCISE:

2             (a) **Right to opt out.** (I) A CONSUMER HAS THE RIGHT TO OPT OUT  
3     OF THE PROCESSING OF PERSONAL DATA CONCERNING THE CONSUMER FOR  
4     PURPOSES OF:

5             (A) TARGETED ADVERTISING;  
6             (B) THE SALE OF PERSONAL DATA; OR  
7             (C) PROFILING IN FURTHERANCE OF DECISIONS THAT PRODUCE  
8     LEGAL OR SIMILARLY SIGNIFICANT EFFECTS CONCERNING A CONSUMER.

9             (II) A CONSUMER MAY AUTHORIZE ANOTHER PERSON, ACTING ON  
10    THE CONSUMER'S BEHALF, TO OPT OUT OF THE PROCESSING OF THE  
11    CONSUMER'S PERSONAL DATA FOR ONE OR MORE OF THE PURPOSES  
12    SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS SECTION, INCLUDING THROUGH  
13    A TECHNOLOGY INDICATING THE CONSUMER'S INTENT TO OPT OUT SUCH AS  
14    A WEB LINK INDICATING A PREFERENCE OR BROWSER SETTING, BROWSER  
15    EXTENSION, OR GLOBAL DEVICE SETTING. A CONTROLLER SHALL COMPLY  
16    WITH AN OPT-OUT REQUEST RECEIVED FROM A PERSON AUTHORIZED BY  
17    THE CONSUMER TO ACT ON THE CONSUMER'S BEHALF IF THE CONTROLLER  
18    IS ABLE TO AUTHENTICATE, WITH COMMERCIALLY REASONABLE EFFORT,  
19    THE IDENTITY OF THE CONSUMER AND THE AUTHORIZED AGENT'S  
20    AUTHORITY TO ACT ON THE CONSUMER'S BEHALF.

21             (III) A CONTROLLER THAT PROCESSES PERSONAL DATA FOR  
22    PURPOSES OF TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA  
23    SHALL PROVIDE A CLEAR AND CONSPICUOUS METHOD TO EXERCISE THE  
24    RIGHT TO OPT OUT OF THE PROCESSING OF PERSONAL DATA CONCERNING  
25    THE CONSUMER PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION. THE  
26    CONTROLLER SHALL PROVIDE THE OPT-OUT METHOD CLEARLY AND  
27    CONSPICUOUSLY IN ANY PRIVACY NOTICE REQUIRED TO BE PROVIDED TO

1 CONSUMERS UNDER THIS PART 13, AND IN A CLEAR, CONSPICUOUS, AND  
2 READILY ACCESSIBLE LOCATION OUTSIDE THE PRIVACY NOTICE.

3 (IV) (A) A CONTROLLER THAT PROCESSES PERSONAL DATA FOR  
4 PURPOSES OF TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA  
5 MAY ALLOW CONSUMERS TO EXERCISE THE RIGHT TO OPT OUT OF THE  
6 PROCESSING OF PERSONAL DATA CONCERNING THE CONSUMER FOR  
7 PURPOSES OF TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA  
8 PURSUANT TO SUBSECTIONS (1)(a)(I)(A) AND (1)(a)(I)(B) OF THIS SECTION  
9 BY CONTROLLERS THROUGH A USER-SELECTED UNIVERSAL OPT-OUT  
10 MECHANISM THAT MEETS THE TECHNICAL SPECIFICATIONS ESTABLISHED  
11 BY THE ATTORNEY GENERAL PURSUANT TO SECTION 6-1-1313. THIS  
12 SUBSECTION (1)(a)(IV)(A) IS REPEALED, EFFECTIVE JULY 1, 2024.

13 (B) EFFECTIVE JULY 1, 2024, A CONTROLLER THAT PROCESSES  
14 PERSONAL DATA FOR PURPOSES OF TARGETED ADVERTISING OR THE SALE  
15 OF PERSONAL DATA SHALL ALLOW CONSUMERS TO EXERCISE THE RIGHT TO  
16 OPT OUT OF THE PROCESSING OF PERSONAL DATA CONCERNING THE  
17 CONSUMER FOR PURPOSES OF TARGETED ADVERTISING OR THE SALE OF  
18 PERSONAL DATA PURSUANT TO SUBSECTIONS (1)(a)(I)(A) AND (1)(a)(I)(B)  
19 OF THIS SECTION BY CONTROLLERS THROUGH A USER-SELECTED  
20 UNIVERSAL OPT-OUT MECHANISM THAT MEETS THE TECHNICAL  
21 SPECIFICATIONS ESTABLISHED BY THE ATTORNEY GENERAL PURSUANT TO  
22 SECTION 6-1-1313.

23 (C) NOTWITHSTANDING A CONSUMER'S DECISION TO EXERCISE THE  
24 RIGHT TO OPT OUT OF THE PROCESSING OF PERSONAL DATA THROUGH A  
25 UNIVERSAL OPT-OUT MECHANISM PURSUANT TO SUBSECTION (1)(a)(IV)(B)  
26 OF THIS SECTION, A CONTROLLER MAY ENABLE THE CONSUMER TO  
27 CONSENT, THROUGH A WEB PAGE, APPLICATION, OR A SIMILAR METHOD, TO

1 THE PROCESSING OF THE CONSUMER'S PERSONAL DATA FOR PURPOSES OF  
2 TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA, AND THE  
3 CONSENT TAKES PRECEDENCE OVER ANY CHOICE REFLECTED THROUGH  
4 THE UNIVERSAL OPT-OUT MECHANISM. BEFORE OBTAINING A CONSUMER'S  
5 CONSENT TO PROCESS PERSONAL DATA FOR PURPOSES OF TARGETED  
6 ADVERTISING OR THE SALE OF PERSONAL DATA PURSUANT TO THIS  
7 SUBSECTION (1)(a)(IV)(C), A CONTROLLER SHALL PROVIDE THE  
8 CONSUMER WITH A CLEAR AND CONSPICUOUS NOTICE INFORMING THE  
9 CONSUMER ABOUT THE CHOICES AVAILABLE UNDER THIS SECTION,  
10 DESCRIBING THE CATEGORIES OF PERSONAL DATA TO BE PROCESSED AND  
11 THE PURPOSES FOR WHICH THEY WILL BE PROCESSED, AND EXPLAINING  
12 HOW AND WHERE THE CONSUMER MAY WITHDRAW CONSENT. THE WEB  
13 PAGE, APPLICATION, OR OTHER MEANS BY WHICH A CONTROLLER OBTAINS  
14 A CONSUMER'S CONSENT TO PROCESS PERSONAL DATA FOR PURPOSES OF  
15 TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA MUST ALSO  
16 ALLOW THE CONSUMER TO REVOKE THE CONSENT AS EASILY AS IT IS  
17 AFFIRMATIVELY PROVIDED.

18 (b) **Right of access.** A CONSUMER HAS THE RIGHT TO CONFIRM  
19 WHETHER A CONTROLLER IS PROCESSING PERSONAL DATA CONCERNING  
20 THE CONSUMER AND TO ACCESS THE CONSUMER'S PERSONAL DATA.

21 (c) **Right to correction.** A CONSUMER HAS THE RIGHT TO CORRECT  
22 INACCURACIES IN THE CONSUMER'S PERSONAL DATA, TAKING INTO  
23 ACCOUNT THE NATURE OF THE PERSONAL DATA AND THE PURPOSES OF THE  
24 PROCESSING OF THE CONSUMER'S PERSONAL DATA.

25 (d) **Right to deletion.** A CONSUMER HAS THE RIGHT TO DELETE  
26 PERSONAL DATA CONCERNING THE CONSUMER.

27 (e) **Right to data portability.** WHEN EXERCISING THE RIGHT TO

1 ACCESS PERSONAL DATA PURSUANT TO SUBSECTION (1)(b) OF THIS  
2 SECTION, A CONSUMER HAS THE RIGHT TO OBTAIN THE PERSONAL DATA IN  
3 A PORTABLE AND, TO THE EXTENT TECHNICALLY FEASIBLE, READILY  
4 USABLE FORMAT THAT ALLOWS THE CONSUMER TO TRANSMIT THE DATA  
5 TO ANOTHER ENTITY WITHOUT HINDRANCE. A CONSUMER MAY EXERCISE  
6 THIS RIGHT NO MORE THAN TWO TIMES PER CALENDAR YEAR. NOTHING IN  
7 THIS SUBSECTION (1)(c) REQUIRES A CONTROLLER TO PROVIDE THE DATA  
8 TO THE CONSUMER IN A MANNER THAT WOULD DISCLOSE THE  
9 CONTROLLER'S TRADE SECRETS.

10 (2) Responding to consumer requests. (a) A CONTROLLER  
11 SHALL INFORM A CONSUMER OF ANY ACTION TAKEN ON A REQUEST UNDER  
12 SUBSECTION (1) OF THIS SECTION WITHOUT UNDUE DELAY AND, IN ANY  
13 EVENT, WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE REQUEST. THE  
14 CONTROLLER MAY EXTEND THE FORTY-FIVE-DAY PERIOD BY FORTY-FIVE  
15 ADDITIONAL DAYS WHERE REASONABLY NECESSARY, TAKING INTO  
16 ACCOUNT THE COMPLEXITY AND NUMBER OF THE REQUESTS. THE  
17 CONTROLLER SHALL INFORM THE CONSUMER OF AN EXTENSION WITHIN  
18 FORTY-FIVE DAYS AFTER RECEIPT OF THE REQUEST, TOGETHER WITH THE  
19 REASONS FOR THE DELAY.

20 (b) If a CONTROLLER DOES NOT TAKE ACTION ON THE REQUEST OF  
21 A CONSUMER, THE CONTROLLER SHALL INFORM THE CONSUMER, WITHOUT  
22 UNDUE DELAY AND, AT THE LATEST, WITHIN FORTY-FIVE DAYS AFTER  
23 RECEIPT OF THE REQUEST, OF THE REASONS FOR NOT TAKING ACTION AND  
24 INSTRUCTIONS FOR HOW TO APPEAL THE DECISION WITH THE CONTROLLER  
25 AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

26 (c) UPON REQUEST, A CONTROLLER SHALL PROVIDE TO THE  
27 CONSUMER THE INFORMATION SPECIFIED IN THIS SECTION FREE OF

1 CHARGE; EXCEPT THAT, FOR A SECOND OR SUBSEQUENT REQUEST WITHIN  
2 A TWELVE-MONTH PERIOD, THE CONTROLLER MAY CHARGE AN AMOUNT  
3 CALCULATED IN THE MANNER SPECIFIED IN SECTION 24-72-205 (5)(a).

4 (d) A CONTROLLER IS NOT REQUIRED TO COMPLY WITH A REQUEST  
5 TO EXERCISE ANY OF THE RIGHTS UNDER SUBSECTION (1) OF THIS SECTION  
6 IF THE CONTROLLER IS UNABLE TO AUTHENTICATE THE REQUEST USING  
7 COMMERCIALY REASONABLE EFFORTS, IN WHICH CASE THE CONTROLLER  
8 MAY REQUEST THE PROVISION OF ADDITIONAL INFORMATION REASONABLY  
9 NECESSARY TO AUTHENTICATE THE REQUEST.

10 (3) (a) A CONTROLLER SHALL ESTABLISH AN INTERNAL PROCESS  
11 WHEREBY CONSUMERS MAY APPEAL A REFUSAL TO TAKE ACTION ON A  
12 REQUEST TO EXERCISE ANY OF THE RIGHTS UNDER SUBSECTION (1) OF THIS  
13 SECTION WITHIN A REASONABLE PERIOD AFTER THE CONSUMER'S RECEIPT  
14 OF THE NOTICE SENT BY THE CONTROLLER UNDER SUBSECTION (2)(b) OF  
15 THIS SECTION. THE APPEAL PROCESS MUST BE CONSPICUOUSLY AVAILABLE  
16 AND AS EASY TO USE AS THE PROCESS FOR SUBMITTING A REQUEST UNDER  
17 THIS SECTION.

18 (b) WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF AN APPEAL, A  
19 CONTROLLER SHALL INFORM THE CONSUMER OF ANY ACTION TAKEN OR  
20 NOT TAKEN IN RESPONSE TO THE APPEAL, ALONG WITH A WRITTEN  
21 EXPLANATION OF THE REASONS IN SUPPORT OF THE RESPONSE. THE  
22 CONTROLLER MAY EXTEND THE FORTY-FIVE-DAY PERIOD BY SIXTY  
23 ADDITIONAL DAYS WHERE REASONABLY NECESSARY, TAKING INTO  
24 ACCOUNT THE COMPLEXITY AND NUMBER OF REQUESTS SERVING AS THE  
25 BASIS FOR THE APPEAL. THE CONTROLLER SHALL INFORM THE CONSUMER  
26 OF AN EXTENSION WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE  
27 APPEAL, TOGETHER WITH THE REASONS FOR THE DELAY.

1           (c) THE CONTROLLER SHALL INFORM THE CONSUMER OF THE  
2           CONSUMER'S ABILITY TO CONTACT THE ATTORNEY GENERAL IF THE  
3           CONSUMER HAS CONCERNS ABOUT THE RESULT OF THE APPEAL.

4           **6-1-1307. Processing de-identified data.** (1) THIS PART 13 DOES  
5           NOT REQUIRE A CONTROLLER OR PROCESSOR TO DO ANY OF THE  
6           FOLLOWING SOLELY FOR PURPOSES OF COMPLYING WITH THIS PART 13:

7           (a) REIDENTIFY DE-IDENTIFIED DATA;

8           (b) COMPLY WITH AN AUTHENTICATED CONSUMER REQUEST TO  
9           ACCESS, CORRECT, DELETE, OR PROVIDE PERSONAL DATA IN A PORTABLE  
10          FORMAT PURSUANT TO SECTION 6-1-1306 (1), IF ALL OF THE FOLLOWING  
11          ARE TRUE:

12          (I) (A) THE CONTROLLER IS NOT REASONABLY CAPABLE OF  
13          ASSOCIATING THE REQUEST WITH THE PERSONAL DATA; OR

14          (B) IT WOULD BE UNREASONABLY BURDENSOME FOR THE  
15          CONTROLLER TO ASSOCIATE THE REQUEST WITH THE PERSONAL DATA;

16          (II) THE CONTROLLER DOES NOT USE THE PERSONAL DATA TO  
17          RECOGNIZE OR RESPOND TO THE SPECIFIC CONSUMER WHO IS THE SUBJECT  
18          OF THE PERSONAL DATA OR ASSOCIATE THE PERSONAL DATA WITH OTHER  
19          PERSONAL DATA ABOUT THE SAME SPECIFIC CONSUMER; AND

20          (III) THE CONTROLLER DOES NOT SELL THE PERSONAL DATA TO  
21          ANY THIRD PARTY OR OTHERWISE VOLUNTARILY DISCLOSE THE PERSONAL  
22          DATA TO ANY THIRD PARTY, EXCEPT AS OTHERWISE AUTHORIZED BY THE  
23          CONSUMER; OR

24          (c) MAINTAIN DATA IN IDENTIFIABLE FORM OR COLLECT, OBTAIN,  
25          RETAIN, OR ACCESS ANY DATA OR TECHNOLOGY IN ORDER TO ENABLE THE  
26          CONTROLLER TO ASSOCIATE AN AUTHENTICATED CONSUMER REQUEST  
27          WITH PERSONAL DATA.

1           (2) A CONTROLLER THAT USES DE-IDENTIFIED DATA SHALL  
2           EXERCISE REASONABLE OVERSIGHT TO MONITOR COMPLIANCE WITH ANY  
3           CONTRACTUAL COMMITMENTS TO WHICH THE DE-IDENTIFIED DATA ARE  
4           SUBJECT AND SHALL TAKE APPROPRIATE STEPS TO ADDRESS ANY  
5           BREACHES OF CONTRACTUAL COMMITMENTS.

6           (3) THE RIGHTS CONTAINED IN SECTION 6-1-1306 (1)(b) TO (1)(e)  
7           DO NOT APPLY TO PSEUDONYMOUS DATA IF THE CONTROLLER CAN  
8           DEMONSTRATE THAT THE INFORMATION NECESSARY TO IDENTIFY THE  
9           CONSUMER IS KEPT SEPARATELY AND IS SUBJECT TO EFFECTIVE TECHNICAL  
10          AND ORGANIZATIONAL CONTROLS THAT PREVENT THE CONTROLLER FROM  
11          ACCESSING THE INFORMATION.

12           **6-1-1308. Duties of controllers. (1) Duty of transparency.**

13          (a) A CONTROLLER SHALL PROVIDE CONSUMERS WITH A REASONABLY  
14          ACCESSIBLE, CLEAR, AND MEANINGFUL PRIVACY NOTICE THAT INCLUDES:

15               (I) THE CATEGORIES OF PERSONAL DATA COLLECTED OR  
16               PROCESSED BY THE CONTROLLER OR A PROCESSOR;

17               (II) THE PURPOSES FOR WHICH THE CATEGORIES OF PERSONAL  
18               DATA ARE PROCESSED;

19               (III) HOW AND WHERE CONSUMERS MAY EXERCISE THE RIGHTS  
20               PURSUANT TO SECTION 6-1-1306, INCLUDING THE CONTROLLER'S CONTACT  
21               INFORMATION AND HOW A CONSUMER MAY APPEAL A CONTROLLER'S  
22               ACTION WITH REGARD TO THE CONSUMER'S REQUEST;

23               (IV) THE CATEGORIES OF PERSONAL DATA THAT THE CONTROLLER  
24               SHARES WITH THIRD PARTIES, IF ANY; AND

25               (V) THE CATEGORIES OF THIRD PARTIES, IF ANY, WITH WHOM THE  
26               CONTROLLER SHARES PERSONAL DATA.

27          (b) IF A CONTROLLER SELLS PERSONAL DATA TO THIRD PARTIES OR

1 PROCESSES PERSONAL DATA FOR TARGETED ADVERTISING, THE  
2 CONTROLLER SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE THE SALE  
3 OR PROCESSING, AS WELL AS THE MANNER IN WHICH A CONSUMER MAY  
4 EXERCISE THE RIGHT TO OPT OUT OF THE SALE OR PROCESSING.

5 (c) A CONTROLLER SHALL NOT:

6 (I) REQUIRE A CONSUMER TO CREATE A NEW ACCOUNT IN ORDER  
7 TO EXERCISE A RIGHT; OR

8 (II) BASED SOLELY ON THE EXERCISE OF A RIGHT AND UNRELATED  
9 TO FEASIBILITY OR THE VALUE OF A SERVICE, INCREASE THE COST OF, OR  
10 DECREASE THE AVAILABILITY OF, THE PRODUCT OR SERVICE.

11 (d) NOTHING IN THIS PART 13 SHALL BE CONSTRUED TO REQUIRE  
12 A CONTROLLER TO PROVIDE A PRODUCT OR SERVICE THAT REQUIRES THE  
13 PERSONAL DATA OF A CONSUMER THAT THE CONTROLLER DOES NOT  
14 COLLECT OR MAINTAIN OR TO PROHIBIT A CONTROLLER FROM OFFERING A  
15 DIFFERENT PRICE, RATE, LEVEL, QUALITY, OR SELECTION OF GOODS OR  
16 SERVICES TO A CONSUMER, INCLUDING OFFERING GOODS OR SERVICES FOR  
17 NO FEE, IF [REDACTED] THE OFFER IS RELATED TO A CONSUMER'S VOLUNTARY  
18 PARTICIPATION IN A BONA FIDE LOYALTY, REWARDS, PREMIUM FEATURES,  
19 DISCOUNT, OR CLUB CARD PROGRAM.

20 (2) **Duty of purpose specification.** A CONTROLLER SHALL SPECIFY  
21 THE EXPRESS PURPOSES FOR WHICH PERSONAL DATA ARE COLLECTED AND  
22 PROCESSED.

23 (3) **Duty of data minimization.** A CONTROLLER'S COLLECTION OF  
24 PERSONAL DATA MUST BE ADEQUATE, RELEVANT, AND LIMITED TO WHAT  
25 IS REASONABLY NECESSARY IN RELATION TO THE SPECIFIED [REDACTED] PURPOSES  
26 FOR WHICH THE DATA ARE PROCESSED.

27 (4) **Duty to avoid secondary use.** A CONTROLLER SHALL NOT

1 PROCESS PERSONAL DATA FOR PURPOSES THAT ARE NOT REASONABLY  
2 NECESSARY TO OR COMPATIBLE WITH THE SPECIFIED PURPOSES FOR  
3 WHICH THE PERSONAL DATA ARE PROCESSED, UNLESS THE CONTROLLER  
4 FIRST OBTAINS THE CONSUMER'S CONSENT.

5 (5) **Duty of care.** A CONTROLLER SHALL TAKE REASONABLE  
6 MEASURES TO SECURE PERSONAL DATA DURING BOTH STORAGE AND USE  
7 FROM UNAUTHORIZED ACQUISITION. THE DATA SECURITY PRACTICES MUST  
8 BE APPROPRIATE TO THE VOLUME, SCOPE, AND NATURE OF THE PERSONAL  
9 DATA PROCESSED AND THE NATURE OF THE BUSINESS.

10 (6) **Duty to avoid unlawful discrimination.** A CONTROLLER  
11 SHALL NOT PROCESS PERSONAL DATA IN VIOLATION OF STATE OR FEDERAL  
12 LAWS THAT PROHIBIT UNLAWFUL DISCRIMINATION AGAINST CONSUMERS.

13 (7) **Duty regarding sensitive data.** A CONTROLLER SHALL NOT  
14 PROCESS A CONSUMER'S SENSITIVE DATA WITHOUT FIRST OBTAINING THE  
15 CONSUMER'S CONSENT OR, IN THE CASE OF THE PROCESSING OF PERSONAL  
16 DATA CONCERNING A KNOWN CHILD, WITHOUT FIRST OBTAINING CONSENT  
17 FROM THE CHILD'S PARENT OR LAWFUL GUARDIAN.

18 **6-1-1309. Data protection assessments - attorney general**  
19 **access and evaluation - definition.** (1) A CONTROLLER SHALL NOT  
20 CONDUCT PROCESSING THAT PRESENTS A HEIGHTENED RISK OF HARM TO  
21 A CONSUMER WITHOUT CONDUCTING AND DOCUMENTING A DATA  
22 PROTECTION ASSESSMENT OF EACH OF ITS PROCESSING ACTIVITIES THAT  
23 INVOLVE PERSONAL DATA ACQUIRED ON OR AFTER THE EFFECTIVE DATE  
24 OF THIS SECTION THAT PRESENT A HEIGHTENED RISK OF HARM TO A  
25 CONSUMER.

26 (2) FOR PURPOSES OF THIS SECTION, "PROCESSING THAT PRESENTS  
27 A HEIGHTENED RISK OF HARM TO A CONSUMER" INCLUDES THE

1     FOLLOWING:

2             (a) PROCESSING PERSONAL DATA FOR PURPOSES OF TARGETED

3     ADVERTISING OR FOR PROFILING IF THE PROFILING PRESENTS A

4     REASONABLY FORESEEABLE RISK OF:

5             (I) UNFAIR OR DECEPTIVE TREATMENT OF, OR UNLAWFUL

6     DISPARATE IMPACT ON, CONSUMERS;

7             (II) FINANCIAL OR PHYSICAL INJURY TO CONSUMERS;

8             (III) A PHYSICAL OR OTHER INTRUSION UPON THE SOLITUDE OR

9     SECLUSION, OR THE PRIVATE AFFAIRS OR CONCERNS, OF CONSUMERS IF THE

10    INTRUSION WOULD BE OFFENSIVE TO A REASONABLE PERSON; OR

11            (IV) OTHER SUBSTANTIAL INJURY TO CONSUMERS;

12            (b) SELLING PERSONAL DATA; AND

13            (c) PROCESSING SENSITIVE DATA.

14            (3) DATA PROTECTION ASSESSMENTS MUST IDENTIFY AND WEIGH

15    THE BENEFITS THAT MAY FLOW, DIRECTLY AND INDIRECTLY, FROM THE

16    PROCESSING TO THE CONTROLLER, THE CONSUMER, OTHER

17    STAKEHOLDERS, AND THE PUBLIC AGAINST THE POTENTIAL RISKS TO THE

18    RIGHTS OF THE CONSUMER ASSOCIATED WITH THE PROCESSING, AS

19    MITIGATED BY SAFEGUARDS THAT THE CONTROLLER CAN EMPLOY TO

20    REDUCE THE RISKS. THE CONTROLLER SHALL FACTOR INTO THIS

21    ASSESSMENT THE USE OF DE-IDENTIFIED DATA AND THE REASONABLE

22    EXPECTATIONS OF CONSUMERS, AS WELL AS THE CONTEXT OF THE

23    PROCESSING AND THE RELATIONSHIP BETWEEN THE CONTROLLER AND THE

24    CONSUMER WHOSE PERSONAL DATA WILL BE PROCESSED.

25            (4) A CONTROLLER SHALL MAKE THE DATA PROTECTION

26    ASSESSMENT AVAILABLE TO THE ATTORNEY GENERAL UPON REQUEST. THE

27    ATTORNEY GENERAL MAY EVALUATE THE DATA PROTECTION ASSESSMENT

1 FOR COMPLIANCE WITH THE DUTIES CONTAINED IN SECTION 6-1-1308 AND  
2 WITH OTHER LAWS, INCLUDING THIS ARTICLE 1. DATA PROTECTION  
3 ASSESSMENTS ARE CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION  
4 AND COPYING UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF  
5 ARTICLE 72 OF TITLE 24. THE DISCLOSURE OF A DATA PROTECTION  
6 ASSESSMENT PURSUANT TO A REQUEST FROM THE ATTORNEY GENERAL  
7 UNDER THIS SUBSECTION (4) DOES NOT CONSTITUTE A WAIVER OF ANY  
8 ATTORNEY-CLIENT PRIVILEGE OR WORK-PRODUCT PROTECTION THAT  
9 MIGHT OTHERWISE EXIST WITH RESPECT TO THE ASSESSMENT AND ANY  
10 INFORMATION CONTAINED IN THE ASSESSMENT.

11 (5) A SINGLE DATA PROTECTION ASSESSMENT MAY ADDRESS A  
12 COMPARABLE SET OF PROCESSING OPERATIONS THAT INCLUDE SIMILAR  
13 ACTIVITIES.

14 (6) DATA PROTECTION ASSESSMENT REQUIREMENTS APPLY TO  
15 PROCESSING ACTIVITIES CREATED OR GENERATED AFTER JULY 1, 2023,  
16 AND ARE NOT RETROACTIVE.

17 **6-1-1310. Liability.** (1) NOTWITHSTANDING ANY PROVISION IN  
18 PART 1 OF THIS ARTICLE 1, THIS PART 13 DOES NOT AUTHORIZE A PRIVATE  
19 RIGHT OF ACTION FOR A VIOLATION OF THIS PART 13 OR ANY OTHER  
20 PROVISION OF LAW. THIS SUBSECTION (1) NEITHER RELIEVES ANY PARTY  
21 FROM ANY DUTIES OR OBLIGATIONS IMPOSED, NOR ALTERS ANY  
22 INDEPENDENT RIGHTS THAT CONSUMERS HAVE, UNDER OTHER LAWS,  
23 INCLUDING THIS ARTICLE 1, THE STATE CONSTITUTION, OR THE UNITED  
24 STATES CONSTITUTION.

25 (2) WHERE MORE THAN ONE CONTROLLER OR PROCESSOR, OR BOTH  
26 A CONTROLLER AND A PROCESSOR, INVOLVED IN THE SAME PROCESSING  
27 VIOLATES THIS PART 13, THE LIABILITY SHALL BE ALLOCATED AMONG THE

1 PARTIES ACCORDING TO PRINCIPLES OF COMPARATIVE FAULT.

2 **6-1-1311. Enforcement - penalties - repeal.**

3 (1)(a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 1, THE

4 ATTORNEY GENERAL AND DISTRICT ATTORNEYS HAVE EXCLUSIVE

5 AUTHORITY TO ENFORCE THIS PART 13 BY BRINGING AN ACTION IN THE

6 NAME OF THE STATE OR AS PARENS PATRIAE ON BEHALF OF PERSONS

7 RESIDING IN THE STATE TO ENFORCE THIS PART 13 AS PROVIDED IN THIS

8 ARTICLE 1, INCLUDING SEEKING AN INJUNCTION TO ENJOIN A VIOLATION OF

9 THIS PART 13.

10 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 1,

11 NOTHING IN THIS PART 13 SHALL BE CONSTRUED AS PROVIDING THE BASIS

12 FOR, OR BEING SUBJECT TO, A PRIVATE RIGHT OF ACTION FOR VIOLATIONS

13 OF THIS PART 13 OR ANY OTHER LAW.

14 (c) FOR PURPOSES ONLY OF ENFORCEMENT OF THIS PART 13 BY THE

15 ATTORNEY GENERAL OR A DISTRICT ATTORNEY, A VIOLATION OF THIS PART

16 13 IS A DECEPTIVE TRADE PRACTICE.

17 (d) PRIOR TO ANY ENFORCEMENT ACTION PURSUANT TO

18 SUBSECTION (1)(a) OF THIS SECTION, THE ATTORNEY GENERAL OR

19 DISTRICT ATTORNEY MUST ISSUE A NOTICE OF VIOLATION TO THE

20 CONTROLLER IF A CURE IS DEEMED POSSIBLE. IF THE CONTROLLER FAILS TO

21 CURE THE VIOLATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE

22 OF VIOLATION, AN ACTION MAY BE BROUGHT PURSUANT TO THIS SECTION.

23 THIS SUBSECTION (1)(d) IS REPEALED, EFFECTIVE JANUARY 1, 2025.

24 (2) THE STATE TREASURER SHALL CREDIT ALL RECEIPTS FROM THE

25 IMPOSITION OF CIVIL PENALTIES UNDER THIS PART 13 PURSUANT TO

26 SECTION 24-31-108.

27 **6-1-1312. Preemption - local governments. THIS PART 13**

1 SUPERSEDES AND PREEMPTS LAWS, ORDINANCES, RESOLUTIONS,  
2 REGULATIONS, OR THE EQUIVALENT ADOPTED BY ANY STATUTORY OR  
3 HOME RULE MUNICIPALITY, COUNTY, OR CITY AND COUNTY REGARDING  
4 THE PROCESSING OF PERSONAL DATA BY CONTROLLERS OR PROCESSORS.

5 **6-1-1313. Rules - opt-out mechanism.** (1) THE ATTORNEY  
6 GENERAL MAY PROMULGATE RULES FOR THE PURPOSE OF CARRYING OUT  
7 THIS PART 13.

8 (2) BY JULY 1, 2023, THE ATTORNEY GENERAL SHALL ADOPT  
9 RULES THAT DETAIL THE TECHNICAL SPECIFICATIONS FOR ONE OR MORE  
10 UNIVERSAL OPT-OUT MECHANISMS THAT CLEARLY COMMUNICATE A  
11 CONSUMER'S AFFIRMATIVE, FREELY GIVEN, AND UNAMBIGUOUS CHOICE TO  
12 OPT OUT OF THE PROCESSING OF PERSONAL DATA FOR PURPOSES OF  
13 TARGETED ADVERTISING OR THE SALE OF PERSONAL DATA PURSUANT TO  
14 SECTION 6-1-1306 (1)(a)(I)(A) OR (1)(a)(I)(B). THE ATTORNEY GENERAL  
15 MAY UPDATE THE RULES THAT DETAIL THE TECHNICAL SPECIFICATIONS  
16 FOR THE MECHANISMS FROM TIME TO TIME TO REFLECT THE MEANS BY  
17 WHICH CONSUMERS INTERACT WITH CONTROLLERS. THE RULES MUST:

18 (a) NOT PERMIT THE MANUFACTURER OF A PLATFORM, BROWSER,  
19 DEVICE, OR ANY OTHER PRODUCT OFFERING A UNIVERSAL OPT-OUT  
20 MECHANISM TO UNFAIRLY DISADVANTAGE ANOTHER CONTROLLER;

21 (b) REQUIRE CONTROLLERS TO INFORM CONSUMERS ABOUT THE  
22 OPT-OUT CHOICES AVAILABLE UNDER SECTION 6-1-1306 (1)(a)(I);

23 (c) NOT ADOPT A MECHANISM THAT IS A DEFAULT SETTING, BUT  
24 RATHER CLEARLY REPRESENTS THE CONSUMER'S AFFIRMATIVE, FREELY  
25 GIVEN, AND UNAMBIGUOUS CHOICE TO OPT OUT OF THE PROCESSING OF  
26 PERSONAL DATA PURSUANT TO SECTION 6-1-1306 (1)(a)(I)(A) OR  
27 (1)(a)(I)(B);

1           (d) ADOPT A MECHANISM THAT IS CONSUMER-FRIENDLY, CLEARLY  
2           DESCRIBED, AND EASY TO USE BY THE AVERAGE CONSUMER;

3           (e) ADOPT A MECHANISM THAT IS AS CONSISTENT AS POSSIBLE  
4           WITH ANY OTHER SIMILAR MECHANISM REQUIRED BY LAW OR REGULATION  
5           IN THE UNITED STATES; AND

6           (f) PERMIT THE CONTROLLER TO ACCURATELY AUTHENTICATE THE  
7           CONSUMER AS A RESIDENT OF THIS STATE AND DETERMINE THAT THE  
8           MECHANISM REPRESENTS A LEGITIMATE REQUEST TO OPT OUT OF THE  
9           PROCESSING OF PERSONAL DATA FOR PURPOSES OF TARGETED  
10          ADVERTISING OR THE SALE OF PERSONAL DATA PURSUANT TO SECTION  
11          6-1-1306 (1)(a)(I)(A) OR (1)(a)(I)(B).

12          (3) BY JANUARY 1, 2025, THE ATTORNEY GENERAL MAY ADOPT  
13          RULES THAT GOVERN THE PROCESS OF ISSUING OPINION LETTERS AND  
14          INTERPRETIVE GUIDANCE TO DEVELOP AN OPERATIONAL FRAMEWORK FOR  
15          BUSINESS THAT INCLUDES A GOOD FAITH RELIANCE DEFENSE OF AN ACTION  
16          THAT MAY OTHERWISE CONSTITUTE A VIOLATION OF THIS PART 13. THE  
17          RULES MUST BECOME EFFECTIVE BY JULY 1, 2025.

18          **SECTION 2.** In Colorado Revised Statutes, **amend** 6-1-104 as  
19          follows:

20          **6-1-104. Cooperative reporting.** The district attorneys may  
21          cooperate in a statewide reporting system by receiving, on forms provided  
22          by the attorney general, complaints from persons concerning deceptive  
23          trade practices listed in section 6-1-105 and OR part 7 OR 13 of this article  
24          ARTICLE 1 and transmitting ~~such~~ THE complaints to the attorney general.

25          **SECTION 3.** In Colorado Revised Statutes, 6-1-105, **add**  
26          (1)(nnn) as follows:

27          **6-1-105. Unfair or deceptive trade practices.** (1) A person

1 engages in a deceptive trade practice when, in the course of the person's  
2 business, vocation, or occupation, the person:

3 (nnn) VIOLATES ANY PROVISION OF PART 13 OF THIS ARTICLE 1 AS  
4 SPECIFIED IN SECTION 6-1-1311 (1)(c).

5 **SECTION 4.** In Colorado Revised Statutes, 6-1-107, **amend** (1)  
6 introductory portion as follows:

7 **6-1-107. Powers of attorney general and district attorneys.**

8 (1) When the attorney general or a district attorney has reasonable cause  
9 to believe that any person, whether in this state or elsewhere, has engaged  
10 in or is engaging in any deceptive trade practice listed in section 6-1-105  
11 or part 7 OR 13 of this ~~article~~ ARTICLE 1, the attorney general or district  
12 attorney may:

13 **SECTION 5.** In Colorado Revised Statutes, 6-1-108, **amend** (1)  
14 as follows:

15 **6-1-108. Subpoenas - hearings - rules.** (1) When the attorney  
16 general or a district attorney has reasonable cause to believe that a person,  
17 whether in this state or elsewhere, has engaged in or is engaging in a  
18 deceptive trade practice listed in section 6-1-105 or part 7 OR 13 of this  
19 article 1, the attorney general or a district attorney, in addition to other  
20 powers conferred upon ~~him or her~~ THE ATTORNEY GENERAL OR A DISTRICT  
21 ATTORNEY by this article 1, may issue subpoenas to require the attendance  
22 of witnesses or the production of documents, administer oaths, conduct  
23 hearings in aid of any investigation or inquiry, and prescribe such forms  
24 and promulgate such rules as may be necessary to administer the  
25 provisions of this article 1.

26 **SECTION 6.** In Colorado Revised Statutes, 6-1-110, **amend** (1)  
27 and (2) as follows:

1           **6-1-110. Restraining orders - injunctions - assurances of**  
2           **discontinuance.** (1) Whenever the attorney general or a district attorney  
3           has cause to believe that a person has engaged in or is engaging in any  
4           deceptive trade practice listed in section 6-1-105 or part 7 OR 13 of this  
5           article ARTICLE 1, the attorney general or district attorney may apply for  
6           and obtain, in an action in the appropriate district court of this state, a  
7           temporary restraining order or injunction, or both, pursuant to the  
8           Colorado rules of civil procedure, prohibiting ~~such~~ THE person from  
9           continuing ~~such~~ THE practices, or engaging therein, or doing any act in  
10           furtherance thereof. The court may make such orders or judgments as may  
11           be necessary to prevent the use or employment by ~~such~~ THE person of any  
12           such deceptive trade practice or ~~which~~ THAT may be necessary to  
13           completely compensate or restore to the original position of any person  
14           injured by means of any such practice or to prevent any unjust enrichment  
15           by any person through the use or employment of any deceptive trade  
16           practice.

17           (2) Where the attorney general or a district attorney has authority  
18           to institute a civil action or other proceeding pursuant to the provisions of  
19           this ~~article~~ ARTICLE 1, the attorney general or district attorney may accept,  
20           in lieu thereof or as a part thereof, an assurance of discontinuance of any  
21           deceptive trade practice listed in section 6-1-105 or part 7 OR 13 of this  
22           article. ~~Such~~ ARTICLE 1. THE assurance may include a stipulation for the  
23           voluntary payment by the alleged violator of the costs of investigation and  
24           any action or proceeding by the attorney general or a district attorney and  
25           any amount necessary to restore to any person any money or property that  
26           may have been acquired by ~~such~~ THE alleged violator by means of any  
27           such deceptive trade practice. Any such assurance of discontinuance

1 accepted by the attorney general or a district attorney and any such  
2 stipulation filed with the court as a part of any such action or proceeding  
3 ~~shall be~~ IS a matter of public record unless the attorney general or the  
4 district attorney determines, at ~~his or her~~ THE discretion OF THE ATTORNEY  
5 GENERAL OR DISTRICT ATTORNEY, that it will be confidential to the parties  
6 to the action or proceeding and to the court and its employees. Upon the  
7 filing of a civil action by the attorney general or a district attorney  
8 alleging that a confidential assurance of discontinuance or stipulation  
9 accepted pursuant to this subsection (2) has been violated, ~~said~~ THE  
10 assurance of discontinuance or stipulation ~~shall thereupon be deemed~~  
11 BECOMES a public record and open to inspection by any person. Proof by  
12 a preponderance of the evidence of a violation of any such assurance or  
13 stipulation ~~shall constitute~~ CONSTITUTES prima facie evidence of a  
14 deceptive trade practice for the purposes of any civil action or proceeding  
15 brought thereafter by the attorney general or a district attorney, whether  
16 a new action or a subsequent motion or petition in any pending action or  
17 proceeding.

18 **SECTION 7. Act subject to petition - effective date -**  
19 **applicability.** (1) This act takes effect July 1, 2023; except that, if a  
20 referendum petition is filed pursuant to section 1 (3) of article V of the  
21 state constitution against this act or an item, section, or part of this act  
22 within the ninety-day period after final adjournment of the general  
23 assembly, then the act, item, section, or part will not take effect unless  
24 approved by the people at the general election to be held in November  
25 2022 and, in such case, will take effect July 1, 2023, or on the date of the  
26 official declaration of the vote thereon by the governor, whichever is  
27 later.

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