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

## REVISED

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

LLS NO. 21-0077.01 Thomas Morris x4218

**SENATE BILL 21-190** 

### SENATE SPONSORSHIP

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### 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 <a href="http://leg.colorado.gov">http://leg.colorado.gov</a>.)

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

HOUSE Amended 2nd Reading June 4, 2021

SENATE d Reading Unamended May 26, 2021

SENATE Amended 2nd Reading May 25, 2021

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.

- 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	<u>PART 13</u>
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	<u>HEREBY:</u>
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

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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	<u>AND</u>
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	<u>CAN COEXIST; AND</u>
26	(II) STATES ACROSS THE UNITED STATES ARE LOOKING TO THIS
2.7	PART 13 AND SIMILAR MODELS TO ENACT STATE-BASED DATA PRIVACY

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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	<u>USE OF PERSONAL DATA; AND</u>
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

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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	<u>CFR 160.103.</u>
19	(4) "CHILD" MEANS AN INDIVIDUAL UNDER THIRTEEN YEARS OF
20	<u>AGE.</u>
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

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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	<u>(6) "Consumer":</u>
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	<u>160.103.</u>
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
2.7	REASONARI Y RE USED TO INFER INFORMATION ABOUT OR OTHERWISE RE

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1	LINKED 10, AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL, OR A DEVICE
2	LINKED TO SUCH AN INDIVIDUAL, IF THE CONTROLLER THAT POSSESSES THE
3	<u>DATA:</u>
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	<u>(11).</u>
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>U.S.C. SECS. 1320d TO 1320d-9.</u>
26	(16) "Identified or identifiable individual" means an
2.7	INDIVIDUAL WHO CAN BE READILY IDENTIFIED DIRECTLY OR INDIRECTLY

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

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

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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	<u>OR</u>
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.
2.7	AGENCY OR BODY OTHER THAN A CONSUMER CONTROLLER PROCESSOR

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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	<u>THAT:</u>
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 ONL
10	HUNDRED THOUSAND CONSUMERS OR MORE DURING A CALENDAR YEAR
11	<u>OR</u>
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 CFF
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	<u>290dd-2;</u>
27	(d) IDENTIFIABLE PRIVATE INFORMATION, AS DEFINED IN 45 CFF

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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	<u>299b-21 то 299b-26;</u>
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

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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	<u>SEC. 1681a (f);</u>
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	<u>SEC. 1681b.</u>
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	<u>TITLE 10;</u>
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

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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	(1) An air carrier as defined in and regulated under 49
16	<u>U.S.C. SEC. 40101 ET SEQ., AS AMENDED, AND 49 U.S.C. SEC. 41713, AS</u>
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	780-3, 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

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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)(0) DOES NOT
5	EFFECT ANY OTHER EXEMPTION AVAILABLE UNDER THIS PART 13.
6	(p) Information used and disclosed in compliance with 45
7	<u>CFR 164.512; or</u>
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	<u>P, 12 CFR 1016.</u>
13	(3) THE OBLIGATIONS IMPOSED ON CONTROLLERS OR PROCESSORS
14	<u>UNDER THIS PART 13 DO NOT:</u>
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 <u>LEGAL CLAIMS</u> ;
27	(V) CONDUCT INTERNAL RESEARCH TO IMPROVE, REPAIR, OR

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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	<u>OR</u>
27	(XII) Assist another person with any of the activities set

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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

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1	<u>SECTION.</u>
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

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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

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COMPLIANCE WITH THE OBLIGATIONS IN THIS PART 13; AND
(B) THE PROCESSOR SHALL ALLOW FOR, AND CONTRIBUTE TO,
REASONABLE AUDITS AND INSPECTIONS BY THE CONTROLLER OR THE
CONTROLLER'S DESIGNATED AUDITOR. ALTERNATIVELY, THE PROCESSOR
MAY, WITH THE CONTROLLER'S CONSENT, ARRANGE FOR A QUALIFIED AND
INDEPENDENT AUDITOR TO CONDUCT, AT LEAST ANNUALLY AND AT THE
PROCESSOR'S EXPENSE, AN AUDIT OF THE PROCESSOR'S POLICIES AND
TECHNICAL AND ORGANIZATIONAL MEASURES IN SUPPORT OF THE
OBLIGATIONS UNDER THIS PART 13 USING AN APPROPRIATE AND ACCEPTED
CONTROL STANDARD OR FRAMEWORK AND AUDIT PROCEDURE FOR THE
AUDITS AS APPLICABLE. THE PROCESSOR SHALL PROVIDE A REPORT OF THE
AUDIT TO THE CONTROLLER UPON REQUEST.
(6) IN NO EVENT MAY A CONTRACT RELIEVE A CONTROLLER OR A
PROCESSOR FROM THE LIABILITIES IMPOSED ON THEM BY VIRTUE OF ITS
ROLE IN THE PROCESSING RELATIONSHIP AS DEFINED BY THIS PART 13.
(7) DETERMINING WHETHER A PERSON IS ACTING AS A
CONTROLLER OR PROCESSOR WITH RESPECT TO A SPECIFIC PROCESSING OF
DATA IS A FACT-BASED DETERMINATION THAT DEPENDS UPON THE
CONTEXT IN WHICH PERSONAL DATA ARE TO BE PROCESSED. A PERSON
THAT IS NOT LIMITED IN ITS PROCESSING OF PERSONAL DATA PURSUANT TO
A CONTROLLER'S INSTRUCTIONS, OR THAT FAILS TO ADHERE TO THE
INSTRUCTIONS, IS A CONTROLLER AND NOT A PROCESSOR WITH RESPECT TO
A SPECIFIC PROCESSING OF DATA. A PROCESSOR THAT CONTINUES TO
ADHERE TO A CONTROLLER'S INSTRUCTIONS WITH RESPECT TO A SPECIFIC
PROCESSING OF PERSONAL DATA REMAINS A PROCESSOR. IF A PROCESSOR
BEGINS, ALONE OR JOINTLY WITH OTHERS, DETERMINING THE PURPOSES
AND MEANS OF THE PROCESSING OF PERSONAL DATA, IT IS A CONTROLLER

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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 EVERGISE CONGLIMED DIGHTS
	CREATE A NEW ACCOUNT IN ORDER TO EXERCISE CONSUMER RIGHTS
25	PURSUANT TO THIS SECTION BUT MAY REQUIRE A CONSUMER TO USE AN
<ul><li>25</li><li>26</li></ul>	

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I	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

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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	<u>SECTION 6-1-1313.</u>
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

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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

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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)(e) 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

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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	COMMERCIALLY 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.

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I	(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
0	FORMAT PURSUANT TO SECTION 6-1-1306 (1), IF ALL OF THE FOLLOWING
1	ARE TRUE:
2	(I) (A) THE CONTROLLER IS NOT REASONABLY CAPABLE OF
3	ASSOCIATING THE REQUEST WITH THE PERSONAL DATA; OR
1	(B) IT WOULD BE UNREASONABLY BURDENSOME FOR THE
;	CONTROLLER TO ASSOCIATE THE REQUEST WITH THE PERSONAL DATA;
5	(II) THE CONTROLLER DOES NOT USE THE PERSONAL DATA TO
7	RECOGNIZE OR RESPOND TO THE SPECIFIC CONSUMER WHO IS THE SUBJECT
	OF THE PERSONAL DATA OR ASSOCIATE THE PERSONAL DATA WITH OTHER
	PERSONAL DATA ABOUT THE SAME SPECIFIC CONSUMER; AND
	(III) THE CONTROLLER DOES NOT SELL THE PERSONAL DATA TO
	ANY THIRD PARTY OR OTHERWISE VOLUNTARILY DISCLOSE THE PERSONAL
2	DATA TO ANY THIRD PARTY, EXCEPT AS OTHERWISE AUTHORIZED BY THE
3	CONSUMER; OR
1	(c) MAINTAIN DATA IN IDENTIFIABLE FORM OR COLLECT, OBTAIN,
	RETAIN, OR ACCESS ANY DATA OR TECHNOLOGY IN ORDER TO ENABLE THE
	CONTROLLER TO ASSOCIATE AN AUTHENTICATED CONSUMER REQUEST
7	WITH PERSONAL DATA.

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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

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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 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 <u>NECESSARY IN RELATION TO THE SPECIFIED</u> <u>PURPOSES</u>
26	FOR WHICH THE DATA ARE PROCESSED.
27	(4) <b>Duty to avoid secondary use.</b> A CONTROLLER SHALL NOT

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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

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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	ATTODNEY GENERAL MAY EVALUATE THE DATA DROTECTION ASSESSMENT

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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

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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	<u>SECTION 24-31-108.</u>
27	<b>6-1-1312.</b> Preemption - local governments. This part 13

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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);

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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	<u>follows:</u>
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

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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	<u>SPECIFIED IN SECTION 6-1-1311</u> (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:

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6-1-110. Restraining orders - injunctions - assurances of **discontinuance.** (1) Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 or 13 of this article ARTICLE 1, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such THE person from continuing such THE practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such THE person of any such deceptive trade practice or which THAT may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice. (2) Where the attorney general or a district attorney has authority to institute a civil action or other proceeding pursuant to the provisions of this article ARTICLE 1, the attorney general or district attorney may accept, in lieu thereof or as a part thereof, an assurance of discontinuance of any deceptive trade practice listed in section 6-1-105 or part 7 or 13 of this article. Such ARTICLE 1. THE assurance may include a stipulation for the voluntary payment by the alleged violator of the costs of investigation and any action or proceeding by the attorney general or a district attorney and

any amount necessary to restore to any person any money or property that

may have been acquired by such THE alleged violator by means of any

such deceptive trade practice. Any such assurance of discontinuance

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accepted by the attorney general or a district attorney and any such stipulation filed with the court as a part of any such action or proceeding shall be IS a matter of public record unless the attorney general or the district attorney determines, at his or her THE discretion OF THE ATTORNEY GENERAL OR DISTRICT ATTORNEY, that it will be confidential to the parties to the action or proceeding and to the court and its employees. Upon the filing of a civil action by the attorney general or a district attorney alleging that a confidential assurance of discontinuance or stipulation accepted pursuant to this subsection (2) has been violated, said THE assurance of discontinuance or stipulation shall thereupon be deemed BECOMES a public record and open to inspection by any person. Proof by a preponderance of the evidence of a violation of any such assurance or stipulation shall constitute CONSTITUTES prima facie evidence of a deceptive trade practice for the purposes of any civil action or proceeding brought thereafter by the attorney general or a district attorney, whether a new action or a subsequent motion or petition in any pending action or proceeding. SECTION 7. Act subject to petition - effective date applicability. (1) This act takes effect July 1, 2023; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect July 1, 2023, or on the date of the official declaration of the vote thereon by the governor, whichever is

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

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