

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

ENGROSSED

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

LLS NO. 24-0534.01 Richard Sweetman x4333

HOUSE BILL 24-1130

HOUSE SPONSORSHIP

Daugherty and Lynch,

SENATE SPONSORSHIP

Lundeen and Hansen,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

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

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
February 16, 2024

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

The bill also:

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

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

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

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

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

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

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

6 (2) The general assembly further finds that:

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

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

17 (3) Therefore, the general assembly declares that the public
18 welfare, security, and safety will be served by regulating the collection,
19 use, safeguarding, handling, storage, retention, and destruction of
20 biometric identifiers.

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

23 **6-1-1314. Biometric data and biometric identifiers -**
24 **controllers - duties and requirements - written policy - prohibited**
25 **acts - right to correct biometric identifiers - right to access biometric**
26 **identifiers - remedies and civil actions - definitions. (1) AS USED IN**
27 **THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:**

1 (a) "COLLECT", "COLLECTION", OR "COLLECTING" MEANS TO
2 ACCESS, ASSEMBLE, BUY, RENT, GATHER, PROCURE, RECEIVE, CAPTURE, OR
3 OTHERWISE OBTAIN ANY BIOMETRIC IDENTIFIER OR BIOMETRIC DATA
4 PERTAINING TO A CONSUMER BY ANY MEANS, ONLINE OR OFFLINE,
5 INCLUDING:

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

8 (II) OBTAINING BIOMETRIC DATA BY OBSERVING THE CONSUMER'S
9 BEHAVIOR.

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

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

16 (I) ESTABLISHES A RETENTION SCHEDULE FOR BIOMETRIC
17 IDENTIFIERS;

18 (II) INCLUDES A PROTOCOL FOR RESPONDING TO A BREACH OF
19 SECURITY OF BIOMETRIC IDENTIFIERS OR BIOMETRIC DATA, INCLUDING A
20 PROCESS FOR NOTIFYING A CONSUMER WHEN THE SECURITY OF THE
21 CONSUMER'S BIOMETRIC IDENTIFIER OR BIOMETRIC DATA HAS BEEN
22 BREACHED; AND

23 (III) INCLUDES GUIDELINES THAT REQUIRE THE PERMANENT
24 DESTRUCTION OF A BIOMETRIC IDENTIFIER ON OR BEFORE THE EARLIEST OF
25 THE FOLLOWING DATES:

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

1 (B) ONE YEAR AFTER THE CONSUMER INTERACTED WITH THE
2 CONTROLLER; OR

3 (C) NO MORE THAN FORTY-FIVE DAYS AFTER RECEIVING A
4 VERIFIED REQUEST TO DELETE THE BIOMETRIC IDENTIFIER.

5 (b) A CONTROLLER SHALL COMPLY WITH ITS POLICY ADOPTED
6 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION UNLESS OTHERWISE
7 DIRECTED BY:

8 (I) A WARRANT ISSUED BY A COURT OF COMPETENT JURISDICTION
9 FOR A SPECIFIC CONSUMER OR CONTROLLER UNDER INVESTIGATION OR
10 FORMALLY CHARGED WITH A CRIME; OR

11 (II) A COMPULSORY REQUEST OR DEMAND ISSUED BY A STATE
12 AGENCY OR A DISTRICT ATTORNEY PURSUANT TO AN INVESTIGATION OF A
13 VIOLATION OF THIS PART 13.

14 (c) A CONTROLLER SHALL MAKE ITS POLICY ADOPTED PURSUANT
15 TO SUBSECTION (2)(a) OF THIS SECTION AVAILABLE TO THE PUBLIC;
16 EXCEPT THAT A CONTROLLER IS NOT REQUIRED TO MAKE AVAILABLE TO
17 THE PUBLIC A WRITTEN POLICY THAT:

18 (I) APPLIES ONLY TO CURRENT EMPLOYEES OF THE CONTROLLER;
19 AND

20 (II) IS USED SOLELY BY EMPLOYEES AND AGENTS OF THE
21 CONTROLLER FOR THE OPERATION OF THE CONTROLLER.

22 (3) **Collection and retention of biometric identifiers -**
23 **requirements - prohibited acts.** (a) A CONTROLLER SHALL NOT COLLECT
24 OR PROCESS A BIOMETRIC IDENTIFIER OF A CONSUMER UNLESS THE
25 CONTROLLER FIRST:

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

27 (II) INFORMS THE CONSUMER OR THE CONSUMER'S LEGALLY

1 AUTHORIZED REPRESENTATIVE IN WRITING THAT A BIOMETRIC IDENTIFIER
2 IS BEING COLLECTED;

3 (III) INFORMS THE CONSUMER OR THE CONSUMER'S LEGALLY
4 AUTHORIZED REPRESENTATIVE IN WRITING OF THE SPECIFIC PURPOSE FOR
5 WHICH A BIOMETRIC IDENTIFIER IS BEING COLLECTED AND THE LENGTH OF
6 TIME THAT THE CONTROLLER WILL RETAIN THE BIOMETRIC IDENTIFIER;

7 (IV) INFORMS THE CONSUMER OR THE CONSUMER'S LEGALLY
8 AUTHORIZED REPRESENTATIVE IN WRITING OF THE BUSINESS NAME OF ANY
9 PROCESSOR TO WHICH THE BIOMETRIC IDENTIFIER WILL BE DISCLOSED,
10 REDISCLOSED, OR OTHERWISE DISSEMINATED; THE SPECIFIC PURPOSE FOR
11 WHICH THE BIOMETRIC IDENTIFIER IS BEING SHARED WITH A PROCESSOR;
12 AND THE LENGTH OF TIME THAT A PROCESSOR WILL RETAIN THE BIOMETRIC
13 IDENTIFIER; AND

14 (V) OBTAINS THE CONSUMER'S CONSENT OR, IN THE CASE OF THE
15 BIOMETRIC IDENTIFIER OF A KNOWN CHILD, OBTAINS CONSENT FROM THE
16 CHILD'S PARENT OR LAWFUL GUARDIAN, AS REQUIRED BY SECTION
17 6-1-1308 (7).

18 (b) A PROCESSOR SHALL SATISFY ALL THE DUTIES DESCRIBED IN
19 THIS SUBSECTION (3); EXCEPT THAT A PROCESSOR IS NOT REQUIRED TO
20 OBTAIN CONSENT DIRECTLY FROM A CONSUMER OR THE CONSUMER'S
21 LEGALLY AUTHORIZED REPRESENTATIVE IF THE CONTROLLER HAS
22 ACQUIRED SUCH CONSENT AND HAS DISCLOSED TO THE CONSUMER OR THE
23 CONSUMER'S LEGALLY AUTHORIZED REPRESENTATIVE THE INFORMATION
24 DESCRIBED IN SUBSECTIONS (3)(a)(II) AND (3)(a)(III) OF THIS SECTION.

25 (c) A CONTROLLER THAT PROCESSES A CONSUMER'S BIOMETRIC
26 IDENTIFIER SHALL NOT:

27 (I) SELL, LEASE, OR TRADE THE BIOMETRIC IDENTIFIER WITH ANY

1 ENTITY;

2 (II) PERMIT ANY ENTITY TO WHICH THE BIOMETRIC IDENTIFIER IS
3 TRANSFERRED TO SELL, LEASE, OR TRADE THE BIOMETRIC IDENTIFIER; OR

4 (III) DISCLOSE, REDISCLOSE, OR OTHERWISE DISSEMINATE THE
5 BIOMETRIC IDENTIFIER UNLESS:

6 (A) THE CONSUMER OR THE CONSUMER'S LEGALLY AUTHORIZED
7 REPRESENTATIVE CONSENTS TO THE DISCLOSURE, REDISCLOSURE, OR
8 OTHER DISSEMINATION;

9 (B) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION
10 IS REQUESTED OR AUTHORIZED BY THE CONSUMER OR THE CONSUMER'S
11 LEGALLY AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF
12 COMPLETING A FINANCIAL TRANSACTION;

13 (C) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION
14 IS TO A PROCESSOR AND IS NECESSARY FOR THE PURPOSE FOR WHICH THE
15 BIOMETRIC IDENTIFIER WAS COLLECTED AND TO WHICH THE CONSUMER OR
16 THE CONSUMER'S LEGALLY AUTHORIZED REPRESENTATIVE CONSENTED;

17 (D) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION
18 IS REQUIRED BY STATE OR FEDERAL LAW; OR

19 (E) THE DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION
20 IS REQUIRED PURSUANT TO A WARRANT ISSUED BY A COURT OF
21 COMPETENT JURISDICTION FOR A CONSUMER OR CONTROLLER UNDER
22 INVESTIGATION OR FORMALLY CHARGED WITH A CRIME OR PURSUANT TO
23 A COMPULSORY REQUEST OR DEMAND ISSUED BY A STATE AGENCY OR A
24 DISTRICT ATTORNEY PURSUANT TO AN INVESTIGATION OF A VIOLATION OF
25 THIS PART 13.

26 (d) A CONTROLLER SHALL NOT:

27 (I) REFUSE TO PROVIDE A GOOD OR SERVICE TO A CONSUMER,

1 BASED ON THE CONSUMER'S REFUSAL TO CONSENT TO THE CONTROLLER'S
2 COLLECTION, USE, DISCLOSURE, TRANSFER, SALE, RETENTION, OR
3 PROCESSING OF A BIOMETRIC IDENTIFIER, UNLESS THE CONSUMER
4 CONSENTS TO ALLOW THE CONTROLLER TO COLLECT, USE, DISCLOSE,
5 TRANSFER, SELL, RETAIN, OR PROCESS A BIOMETRIC IDENTIFIER UNLESS
6 THE COLLECTION, USE, DISCLOSURE, TRANSFER, SALE, RETENTION, OR
7 PROCESSING OF THE BIOMETRIC IDENTIFIER IS NECESSARY TO PROVIDE THE
8 GOOD OR SERVICE; ■■■

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

13 (III) PURCHASE A BIOMETRIC IDENTIFIER UNLESS THE CONTROLLER
14 PAYS THE CONSUMER FOR THE COLLECTION OF THE CONSUMER'S
15 BIOMETRIC IDENTIFIER, THE PURCHASE IS UNRELATED TO THE PROVISION
16 OF A PRODUCT OR SERVICE TO THE CONSUMER, AND THE CONTROLLER HAS
17 OBTAINED CONSENT AS DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION.

18 (e) A CONTROLLER SHALL STORE, TRANSMIT, AND PROTECT FROM
19 DISCLOSURE ALL BIOMETRIC IDENTIFIERS USING THE REASONABLE
20 STANDARD OF CARE WITHIN THE CONTROLLER'S INDUSTRY. IF NO SUCH
21 STANDARD EXISTS, A CONTROLLER SHALL STORE, TRANSMIT, AND PROTECT
22 FROM DISCLOSURE ALL BIOMETRIC IDENTIFIERS IN A MANNER THAT IS
23 EQUAL TO OR MORE PROTECTIVE THAN THE MANNER IN WHICH THE
24 CONTROLLER STORES, TRANSMITS, AND PROTECTS OTHER CONFIDENTIAL
25 INFORMATION.

26 (4) **Right to update biometric identifiers.** AT THE REQUEST OF
27 A CONSUMER OR A CONSUMER'S LEGALLY AUTHORIZED REPRESENTATIVE,

1 A CONTROLLER THAT COLLECTS THE CONSUMER'S BIOMETRIC IDENTIFIER
2 SHALL UPDATE THE BIOMETRIC IDENTIFIER AS REQUESTED BY THE
3 CONSUMER. THE CONTROLLER SHALL COMPLETE THE UPDATE AND DELETE
4 ANY REPLACED DATA WITHIN SIXTY DAYS AFTER RECEIVING THE REQUEST.

5 (5) **Right to access biometric identifiers - applicability -**
6 **definitions.** (a) EXCEPT AS DESCRIBED IN SUBSECTION (5)(b) OF THIS
7 SECTION, AT THE REQUEST OF A CONSUMER OR A CONSUMER'S LEGALLY
8 AUTHORIZED REPRESENTATIVE, A CONTROLLER THAT COLLECTS THE
9 CONSUMER'S BIOMETRIC IDENTIFIER SHALL DISCLOSE TO THE CONSUMER,
10 FREE OF CHARGE, THE CATEGORY OR DESCRIPTION OF THE CONSUMER'S
11 BIOMETRIC IDENTIFIER AND THE FOLLOWING INFORMATION:

12 (I) THE SOURCE FROM WHICH THE CONTROLLER COLLECTED THE
13 BIOMETRIC IDENTIFIER;

14 (II) THE PURPOSE FOR WHICH THE CONTROLLER USED THE
15 BIOMETRIC IDENTIFIER AND ANY ASSOCIATED PERSONAL DATA;

16 (III) THE IDENTITY OF ANY THIRD PARTY WITH WHICH THE
17 CONTROLLER SHARED OR SHARES THE BIOMETRIC IDENTIFIER AND THE
18 PURPOSES FOR SHARING; AND

19 (IV) THE CATEGORY OR A DESCRIPTION OF THE SPECIFIC
20 BIOMETRIC IDENTIFIERS THAT THE CONTROLLER DISCLOSES TO THIRD
21 PARTIES.

22 (b) THE REQUIREMENTS OF SUBSECTION (5)(a) OF THIS SECTION
23 APPLY ONLY TO:

24 (I) A SOLE PROPRIETORSHIP, A PARTNERSHIP, A LIMITED LIABILITY
25 COMPANY, A CORPORATION, AN ASSOCIATION, OR ANOTHER LEGAL ENTITY
26 THAT:

27 (A) CONDUCTS BUSINESS IN COLORADO OR PRODUCES OR

1 DELIVERS COMMERCIAL PRODUCTS OR SERVICES THAT ARE MARKETED TO
2 COLORADO RESIDENTS;

3 (B) COLLECTS BIOMETRIC IDENTIFIERS OR HAS BIOMETRIC
4 IDENTIFIERS COLLECTED ON ITS BEHALF; AND

5 (C) EITHER COLLECTS OR PROCESSES THE PERSONAL DATA OF ONE
6 HUNDRED THOUSAND INDIVIDUALS OR MORE DURING A CALENDAR YEAR
7 OR COLLECTS AND PROCESSES THE PERSONAL DATA OF TWENTY-FIVE
8 THOUSAND INDIVIDUALS OR MORE AND DERIVES REVENUE FROM, OR
9 RECEIVES A DISCOUNT ON THE PRICE OF GOODS OR SERVICES FROM, THE
10 SALE OF PERSONAL DATA;

11 (II) A CONTROLLER THAT CONTROLS OR IS CONTROLLED BY
12 ANOTHER CONTROLLER AND THAT SHARES COMMON BRANDING WITH THE
13 OTHER CONTROLLER. AS USED IN THIS SUBSECTION (5)(b)(II):

14 (A) "COMMON BRANDING" MEANS A SHARED NAME, SERVICE
15 MARK, OR TRADEMARK THAT A CONSUMER WOULD REASONABLY
16 UNDERSTAND TO INDICATE THAT TWO OR MORE ENTITIES ARE COMMONLY
17 OWNED.

18 (B) "CONTROL" MEANS THE OWNERSHIP OF, CONTROL OF, OR
19 POWER TO VOTE MORE THAN TWENTY-FIVE PERCENT OR MORE OF THE
20 OUTSTANDING SHARES OF ANY CLASS OF VOTING SECURITY OF A
21 CONTROLLER; CONTROL IN ANY MANNER OVER THE ELECTION OF A
22 MAJORITY OF THE DIRECTORS OF A CONTROLLER OR OF INDIVIDUALS
23 EXERCISING SIMILAR FUNCTIONS; OR THE POWER TO EXERCISE, DIRECTLY
24 OR INDIRECTLY, A CONTROLLING INFLUENCE OVER THE MANAGEMENT OF
25 A CONTROLLER.

26 (III) A JOINT VENTURE OR PARTNERSHIP CONSISTING OF NO MORE
27 THAN TWO BUSINESSES THAT SHARE CONSUMERS' PERSONAL DATA WITH

1 EACH OTHER.

2 (6) Use of consent by employers. (a) AN EMPLOYER MAY
3 REQUIRE AS A CONDITION OF EMPLOYMENT THAT AN EMPLOYEE OR A
4 PROSPECTIVE EMPLOYEE CONSENT TO ALLOWING THE EMPLOYER TO
5 COLLECT AND PROCESS THE EMPLOYEE'S OR THE PROSPECTIVE EMPLOYEE'S
6 BIOMETRIC IDENTIFIER ONLY TO:

7 (I) PERMIT ACCESS TO SECURE PHYSICAL LOCATIONS AND SECURE
8 ELECTRONIC HARDWARE AND SOFTWARE APPLICATIONS; EXCEPT THAT AN
9 EMPLOYER SHALL NOT OBTAIN THE EMPLOYEE'S OR PROSPECTIVE
10 EMPLOYEE'S CONSENT TO RETAIN BIOMETRIC DATA THAT IS USED FOR
11 CURRENT EMPLOYEE LOCATION TRACKING OR THE TRACKING OF HOW
12 MUCH TIME THE EMPLOYEE SPENDS USING A HARDWARE OR SOFTWARE
13 APPLICATION; OR

14 (II) RECORD THE COMMENCEMENT AND CONCLUSION OF THE
15 EMPLOYEE'S FULL WORK DAY, INCLUDING MEAL BREAKS AND REST BREAKS
16 IN EXCESS OF THIRTY MINUTES.

17 (b) AN EMPLOYER MAY COLLECT AND PROCESS AN EMPLOYEE'S OR
18 PROSPECTIVE EMPLOYEE'S BIOMETRIC IDENTIFIER FOR USES OTHER THAN
19 THOSE DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION ONLY WITH THE
20 EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S CONSENT. AN EMPLOYER MAY
21 NOT REQUIRE THAT AN EMPLOYEE OR PROSPECTIVE EMPLOYEE CONSENT
22 TO SUCH COLLECTION OR PROCESSING AS A CONDITION OF EMPLOYMENT
23 OR RETALIATE AGAINST AN EMPLOYEE OR PROSPECTIVE EMPLOYEE WHO
24 DOES NOT CONSENT TO SUCH COLLECTION OR PROCESSING.

25 (c) SO LONG AS CONSENT THAT IS OBTAINED FOR COLLECTION AND
26 PROCESSING AS DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION
27 SATISFIES THE DEFINITION OF CONSENT PROVIDED IN SECTION 6-1-1303 (5),

1 CONSENT IS CONSIDERED TO BE FREELY GIVEN AND VALID FOR THE LIMITED
2 PURPOSES DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION.

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

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

12 **6-1-1303. Definitions.** As used in this part 13, unless the context
13 otherwise requires:

14 (2.2) (a) "BIOMETRIC DATA" MEANS ONE OR MORE BIOMETRIC
15 IDENTIFIERS THAT ARE USED OR INTENDED TO BE USED, SINGLY OR IN
16 COMBINATION WITH EACH OTHER OR WITH OTHER PERSONAL DATA, FOR
17 IDENTIFICATION PURPOSES.

18 (b) "BIOMETRIC DATA" DOES NOT INCLUDE:

19 (I) A DIGITAL OR PHYSICAL PHOTOGRAPH;

20 (II) AN AUDIO OR VOICE RECORDING; OR

21 (III) ANY DATA GENERATED FROM A DIGITAL OR PHYSICAL
22 PHOTOGRAPH OR AN AUDIO OR VIDEO RECORDING.

23 (2.4) "BIOMETRIC IDENTIFIER" MEANS DATA GENERATED BY THE
24 TECHNOLOGICAL PROCESSING, MEASUREMENT, OR ANALYSIS OF A
25 CONSUMER'S BIOLOGICAL, PHYSICAL, OR BEHAVIORAL CHARACTERISTICS,
26 WHICH DATA CAN BE PROCESSED FOR THE PURPOSE OF UNIQUELY
27 IDENTIFYING AN INDIVIDUAL. "BIOMETRIC IDENTIFIER" INCLUDES:

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

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

9 **6-1-1304. Applicability of part.** (1) Except as specified in
10 subsection (2) of this section, this part 13 applies to a controller that:

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

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

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

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

20 (b) CONTROLS OR PROCESSES ANY AMOUNT OF BIOMETRIC
21 IDENTIFIERS OR BIOMETRIC DATA REGARDLESS OF THE AMOUNT OF
22 BIOMETRIC IDENTIFIERS OR BIOMETRIC DATA CONTROLLED OR PROCESSED
23 ANNUALLY; EXCEPT THAT A CONTROLLER THAT MEETS THE
24 QUALIFICATIONS OF THIS SUBSECTION (1)(b) BUT DOES NOT MEET THE
25 QUALIFICATIONS OF SUBSECTION (1)(a) OF THIS SECTION SHALL COMPLY
26 WITH THIS PART 13 ONLY FOR THE PURPOSES OF A BIOMETRIC IDENTIFIER
27 OR BIOMETRIC DATA THAT THE CONTROLLER COLLECTS AND PROCESSES.

1 (6) NOTHING IN THIS PART 13 SHALL BE CONSTRUED TO IMPACT
2 THE ADMISSION OR DISCOVERY OF A BIOMETRIC IDENTIFIER IN ANY ACTION
3 OF ANY KIND IN ANY COURT OR BEFORE ANY TRIBUNAL, BOARD, OR
4 AGENCY.

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

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