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Colorado Takes a Major Step Towards Rewriting Its AI Law As Its Effective Date Approaches

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Quick Hit: In 2024, Colorado enacted the Colorado Artificial Intelligence Act (the "AI Act"), the most comprehensive measure regulating the use of AI in the nation. As the law's June 30, 2026 effective date approaches, and given the significant concerns raised about the AI Act, on March 17, 2026, the Colorado AI Policy Work Group (the "Work Group"), with Governor Jared Polis's backing, released a proposed framework (the "Proposal") that would replace much of the original AI Act with a more streamlined regime. If enacted, the Proposal would also delay the law's effective date from June 30, 2026 to January 1, 2027.

Key Takeaways: Colorado's AI Act has been a source of concern for employers since it was enacted in 2024. It is the most comprehensive AI law in the country and, if it goes into effect without changes, will impose a host of onerous requirements on employers, including implementation of risk management programs, impact assessments, annual reviews, and disclosures regarding algorithmic discrimination. The Proposal would eliminate many of these requirements and impose a far narrower framework that would focus on transparency and notice. Of course, it remains to be seen whether and to what extent the Proposal will be adopted. While this development is a positive one for employers, the AI Act remains set to go into effect on June 30, 2026. Employers should monitor developments but be aware that the amendments may not be enacted, and should therefore be preparing to comply with the AI Act on June 30, 2026.

More Detail:

The AI Act regulates "high-risk artificial intelligence systems." The Proposal instead would regulate certain uses of "automated decision-making tools" ("ADMT") in "consequential decisions."

The proposal defines ADMT as “any technology that processes personal information and uses computation to generate output including predictions, recommendations, classifications, rankings, scores, or other information that is used to make, guide, or assist a decision, judgment, or determination concerning an individual.”

A “consequential” decision is defined as “a decision, determination, or action for a consumer, employee or applicant relating to one or more” of several domains, including “employment or an employment opportunity,” and which is “reasonably likely” to “materially limit, delay, effectively deny, or otherwise fundamentally alter the individual’s access, eligibility or opportunity.”

But not every use of ADMT would be covered—the Proposal applies to “covered ADMT” that “materially influences” a consequential decision; meaning an ADMT output that “is a non-de minimis factor that is used in making a consequential decision” and “affects the outcome of the decision, including by constraining, ranking, scoring, recommending, classifying, or otherwise meaningfully altering how the decision is made.” The Proposal also makes clear that the term does not include “incidental, trivial, or clerical uses” of ADMT.

The Proposal also expressly excludes certain categories of technologies and tools from coverage, such as spellcheckers, calculators, and spreadsheets that require human analysis and do not use machine learning.

Notice, Adverse-Outcome Disclosures, Human Review, and Recordkeeping

The Proposal would require notice before covered ADMT is used in connection with making a consequential decision. A deployer would be required to provide notice that covered ADMT is being used and explain how an individual can obtain additional information. The Proposal also contemplates that this notice could be provided through a public notice that is “reasonably accessible at points of interaction” and may be given through a “link or posting reasonably proximate to the interaction.”

The Proposal also would require more detailed disclosures after an adverse consequential decision. As drafted, where covered ADMT renders a consequential decision that results in an adverse outcome, the deployer would have to provide notice to the affected individual within 30 calendar days, which would need to include:

- A plain-language description of the consequential decision and the role the covered ADMT played in the decision;
- Instructions and a simple to follow process to request additional information about the ADMT and the inputs including the name of the ADMT, the ADMT version number if applicable, the ADMT developer and the types, categories, and sources of personal data used, to the extent reasonably known to the deployer and/or provided by the developer;
- Information on how to request personal data under the Colorado Privacy Laws and how to correct materially inaccurate personal data consistent with section 6-1-1306; and
- Information on how to request meaningful human review or reconsideration, if available.

The Proposal provides that "the specific elements of such disclosures be further clarified through rulemaking." It would also allow an individual affected by an adverse consequential decision to request "meaningful human review and reconsideration."

Significant Obligations Eliminated

The Proposal would remove several significant obligations in the current statute. Most notably, under the Proposal, employers would no longer be required to implement risk management policies, conduct impact assessments and annual reviews, or report algorithmic discrimination.

Enforcement

Under the Proposal, the law would remain enforceable by the Colorado Attorney General – in other words, the Proposal does not provide a private right of action for violations. Before bringing an action, however, the Attorney General would be required to provide written notice of the alleged violation and an opportunity to cure within 90 days. If the violation is cured within that period and a written statement "describing the cure" is provided, civil penalties would not be available for that specific violation.

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For now, the Proposal is just that – a proposal. The AI Act remains the law and is still scheduled to go into effect on June 30, 2026. Even so, the Proposal is a significant step toward amending the AI Act and, if enacted, would remove significant obligations on employers. We will continue to monitor developments in this area of the law.

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