

An Act

SENATE BILL 25-077

BY SENATOR(S) Kipp and Rich, Gonzales J., Jodeh, Sullivan, Coleman;
also REPRESENTATIVE(S) Carter and Soper, Boesenecker, Duran,
Zokaie.

VETO

CONCERNING MODIFICATIONS TO THE "COLORADO OPEN RECORDS ACT".

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

SECTION 1. In Colorado Revised Statutes, 24-72-202, **amend** (6)(b)(XVII) and (6)(b)(XVIII); and **add** (6)(b)(XIX) as follows:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(XVII) A complaint of harassment or discrimination, as described in section 22-1-143, that is unsubstantiated and all records related to the unsubstantiated complaint, including records of an investigation into the complaint; ~~or~~

(XVIII) Jail assessments conducted pursuant to section 30-10-530

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(5)(d) or 24-31-118; OR

(XIX) (A) A WRITTEN DOCUMENT OR ELECTRONIC RECORD THAT IS PRODUCED BY A DEVICE OR APPLICATION THAT IS USED TO ASSIST AN INDIVIDUAL WITH A DISABILITY TO FACILITATE COMMUNICATION IF THE WRITTEN DOCUMENT OR ELECTRONIC RECORD HAS BEEN PRODUCED TO FACILITATE COMMUNICATION FOR THE INDIVIDUAL WITH THE DISABILITY IN LIEU OF VERBAL COMMUNICATION; OR

(B) A WRITTEN DOCUMENT OR ELECTRONIC RECORD THAT IS PRODUCED BY A DEVICE OR APPLICATION THAT IS USED TO ASSIST INDIVIDUALS WITH A LANGUAGE BARRIER TO FACILITATE COMMUNICATION IF THE WRITTEN DOCUMENT OR ELECTRONIC RECORD HAS BEEN PRODUCED TO FACILITATE COMMUNICATION BETWEEN THE INDIVIDUALS WITH A LANGUAGE BARRIER IN LIEU OF VERBAL COMMUNICATION. AS USED IN THIS SUBSECTION (6)(b)(XIX)(B), "LANGUAGE BARRIER" MEANS A DIFFICULTY FOR INDIVIDUALS TO COMMUNICATE BECAUSE THE INDIVIDUALS SPEAK DIFFERENT LANGUAGES OR DO NOT OTHERWISE SHARE A COMMON LANGUAGE.

SECTION 2. In Colorado Revised Statutes, 24-72-203, **amend** (3)(b) introductory portion, (3)(b)(I), (3)(b)(II) introductory portion, (3)(b)(II)(B), (3)(b)(III), (3)(d)(I), and (3)(d)(II); and **add** (1)(c), (3)(b)(IV), (3)(b.5), (3)(e), and (3)(f) as follows:

24-72-203. Public records open to inspection - definitions.
(1) (c) A PUBLIC ENTITY THAT HAS PUBLIC RECORDS THAT MAY BE SUBJECT TO DISCLOSURE PURSUANT TO THIS PART 2 SHALL POST ON ITS WEBSITE ANY RULES OR POLICIES ADOPTED IN ACCORDANCE WITH THIS PART 2, INCLUDING RULES CONCERNING THE INSPECTION OF PUBLIC RECORDS. THE PUBLIC ENTITY SHALL ALSO POST ON ITS WEBSITE ANY RECORDS RETENTION POLICY THAT IT HAS AND SHALL PROVIDE ON ITS WEBSITE INFORMATION TO MEMBERS OF THE PUBLIC CONCERNING HOW TO REQUEST INSPECTION OF PUBLIC RECORDS FROM A CUSTODIAN OF THE PUBLIC ENTITY. IF THE PUBLIC ENTITY DOES NOT HAVE A PUBLICLY ACCESSIBLE WEBSITE, THEN THE INFORMATION REQUIRED TO BE POSTED PURSUANT TO THIS SUBSECTION (1)(c) MUST BE PHYSICALLY POSTED IN THE LOCATION DESIGNATED BY THE PUBLIC ENTITY FOR POSTING NOTICES.

(3) (b) The date and hour set for the inspection of records not readily

available at the time of the request ~~shall~~ MUST be within a reasonable time after the request. As used in this subsection (3), a "reasonable time" ~~shall be~~ IS presumed to be ~~three~~ FIVE working days or less. Such period may be extended if extenuating circumstances exist. However, such period of extension shall not exceed ~~seven~~ TEN working days. A finding that extenuating circumstances exist ~~shall~~ MUST be made in writing by the custodian and ~~shall~~ MUST be provided to the person making the request within the ~~three-day~~ FIVE-DAY period. Extenuating circumstances ~~shall~~ apply only when:

(I) A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the custodian reasonably to prepare or gather the records within the ~~three-day~~ FIVE-DAY period; ~~or~~

(II) A broadly stated request is made that encompasses all or substantially all of a large category of records and the agency is unable to prepare or gather the records within the ~~three-day~~ FIVE-DAY period because:

(B) In the case of the general assembly or its staff or service agencies, the general assembly is in session; ~~or~~

(III) A request involves such a large volume of records that the custodian cannot reasonably prepare or gather the records within the ~~three-day~~ FIVE-DAY period without substantially interfering with the custodian's obligation to perform ~~his or her~~ THE CUSTODIAN'S other public service responsibilities; OR

(IV) THE CUSTODIAN, OR A PERSON WHO IS ESSENTIAL TO THE PROCESS OF RESPONDING TO REQUESTS, IS NOT SCHEDULED TO WORK WITHIN ALL OR PART OF THE FIVE-DAY PERIOD.

(b.5) NOTWITHSTANDING THE PERIODS SET FORTH IN SUBSECTION (3)(b) OF THIS SECTION, A "REASONABLE TIME" TO RESPOND TO A REQUEST MADE BY A MASS MEDIUM, AS DEFINED IN SECTION 13-90-119 (1)(a), OR A NEWSPERSON, AS DEFINED IN SECTION 13-90-119 (1)(c), IS PRESUMED TO BE THREE WORKING DAYS OR LESS, AND SUCH PERIOD MAY BE EXTENDED UP TO AN ADDITIONAL SEVEN WORKING DAYS IF EXTENUATING CIRCUMSTANCES EXIST AS SET FORTH IN SUBSECTION (3)(b) OF THIS SECTION.

(d) Notwithstanding any other provision of this section, if the public records requested are election-related and are in the custody and control of a county clerk and recorder but are in active use, in storage, or otherwise not readily available at the time a requester asks to examine them, and the request is made during an election for which the county clerk and recorder is the designated election official, the county clerk and recorder may, at the county clerk and recorder's discretion, take additional time to fulfill the request as specified in this subsection (3)(d); except that the provisions of this subsection (3)(d) do not apply if the requester of the public records is a mass medium organization as defined in section 13-90-119 (1)(a), or a newsperson, as defined in section 13-90-119 (1)(c). The county clerk and recorder may take additional time to fulfill the request as follows:

(I) During the period beginning on the sixtieth day before election day and concluding with the date by which the county clerk and recorder certifies the final official abstract of votes cast for the applicable election, the county clerk and recorder may extend the period for production of records up to an additional ten working days past the ~~seven-day~~ TEN-DAY extension allowed under subsection (3)(b) of this section;

(II) The county clerk and recorder shall provide written notice of the extension to the requester within ~~three~~ FIVE working days from the date of the request;

(e) (I) (A) IF A CUSTODIAN, DESPITE EXPENDING REASONABLE EFFORT, IS UNABLE TO DETERMINE OR ACCESS PUBLIC RECORDS THAT MAY BE RESPONSIVE TO A REQUEST BECAUSE THE PUBLIC RECORDS MAY BE IN THE SOLE AND EXCLUSIVE CUSTODY AND CONTROL OF ANOTHER EMPLOYEE, VOLUNTEER, DIRECTOR, AGENT, ELECTED OFFICIAL, OR OTHER PERSON AUTHORIZED TO HAVE CUSTODY AND CONTROL OF THE PUBLIC RECORDS WHO IS ON LEAVE, NOT ON CONTRACT, OR OTHERWISE NOT SCHEDULED TO WORK WITHIN THE APPLICABLE RESPONSE PERIOD, THE CUSTODIAN SHALL PROVIDE WITHIN THE APPLICABLE RESPONSE PERIOD ALL OTHER AVAILABLE RESPONSIVE PUBLIC RECORDS IN ACCORDANCE WITH THIS PART 2. THE CUSTODIAN SHALL NOTIFY THE REQUESTER OF THE EARLIEST DATE ON WHICH THE OTHER PERSON WHO MAY HAVE ANY ADDITIONAL POTENTIALLY RESPONSIVE PUBLIC RECORDS IS EXPECTED TO BE AVAILABLE AND IF THE PERSON'S RETURN DATE IS UNABLE TO BE DETERMINED AT THE TIME OF THE REQUEST, THE CUSTODIAN SHALL NOTIFY THE REQUESTER OF THE DATE OF THE PERSON'S RETURN AS SOON AS IT IS ABLE TO BE DETERMINED OR, IF THE

PERSON IS NOT EXPECTED TO RETURN TO WORK, THE CUSTODIAN SHALL PROVIDE NOTICE TO THE REQUESTER OF THAT. THE REQUESTER MAY SUBMIT A NEW REQUEST FOR ANY ADDITIONAL POTENTIALLY RESPONSIVE PUBLIC RECORDS ON OR AFTER THE DATE THAT THE CUSTODIAN PROVIDES.

(B) THIS SUBSECTION (3)(e) IS NOT INTENDED TO BE UTILIZED TO INTENTIONALLY DELAY OR CIRCUMVENT THE RELEASE OF PUBLIC RECORDS AND IT DOES NOT EXEMPT A CUSTODIAN'S RESPONSIBILITY TO MAINTAIN REASONABLE ACCESS TO PUBLIC RECORDS.

(II) THE PROVISIONS SET FORTH IN THIS SUBSECTION (3)(e) DO NOT MODIFY THE PROVISIONS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION.

(III) AS USED IN THIS SUBSECTION (3)(e), UNLESS THE CONTEXT OTHERWISE REQUIRES, "APPLICABLE RESPONSE PERIOD" MEANS:

(A) THE FIVE-DAY PERIOD OR THE TEN-DAY EXTENSION SET FORTH IN SUBSECTION (3)(b) OF THIS SECTION;

(B) THE THREE-DAY PERIOD OR THE SEVEN-DAY EXTENSION SET FORTH IN SUBSECTION (3)(b.5) OF THIS SECTION; OR

(C) THE PERIOD INCLUDING THE ADDITIONAL TEN-DAY PERIOD SET FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION.

(f) (I) IF A CUSTODIAN DETERMINES THAT REQUESTED PUBLIC RECORDS WILL BE USED FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY GAIN, THE CUSTODIAN SHALL PROVIDE THE REQUESTER WITH WRITTEN NOTICE OF THE DETERMINATION WITHIN THE THREE-DAY OR FIVE-DAY PERIOD, AS APPLICABLE, AND, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN SETTING A DATE AND HOUR FOR RECORDS TO BE AVAILABLE FOR INSPECTION, THE CUSTODIAN SHALL HAVE THIRTY WORKING DAYS FROM PROVIDING THE NOTICE. A REQUESTER MAY SUBMIT WITH A REQUEST A SIGNED STATEMENT AFFIRMING THAT THE REQUESTED PUBLIC RECORDS WILL NOT BE USED FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY GAIN, WHICH THE CUSTODIAN MUST CONSIDER IN MAKING THE CUSTODIAN'S DETERMINATION PURSUANT TO THIS SUBSECTION (3)(f)(I). THE CUSTODIAN SHALL NOT CONSIDER IF THE REQUESTER MAY RECEIVE ANY MONETARY OR EQUITABLE AWARD PURSUANT TO LITIGATION IN MAKING THE DETERMINATION OF WHETHER A REQUEST IS FOR THE DIRECT

SOLICITATION OF BUSINESS FOR PECUNIARY GAIN.

(II) A REQUESTER THAT MAKES A REQUEST THAT HAS BEEN DETERMINED BY A CUSTODIAN TO BE FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY GAIN MAY APPLY TO THE DISTRICT COURT OF THE DISTRICT IN WHICH THE REQUESTED PUBLIC RECORDS ARE LOCATED FOR A DETERMINATION THAT THE REQUEST IS NOT FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY GAIN. THE COURT SHALL REVIEW THE MATTER AT THE EARLIEST PRACTICAL TIME AND HAS DISCRETION TO LIMIT ITS REVIEW TO SUBMISSION OF PLEADINGS, AFFIDAVITS, AND OTHER MATERIAL AS DEEMED APPROPRIATE BY THE COURT, OR THE COURT MAY SCHEDULE A HEARING. IN ITS REVIEW, THE COURT SHALL APPLY AN ABUSE OF DISCRETION STANDARD TO THE CUSTODIAN'S DETERMINATION.

(III) NOTWITHSTANDING SECTION 24-72-205 (6)(a), A CUSTODIAN IS ENTITLED TO RECOVER THE REASONABLE COST ASSOCIATED WITH DIRECTLY RESPONDING TO A REQUEST FOR RECORDS THAT HAS BEEN DETERMINED BY THE CUSTODIAN TO BE FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY GAIN.

(IV) A REQUEST FOR PUBLIC RECORDS FOR PURPOSES RELATED TO COLLECTIVE BARGAINING, ORGANIZING, OR OTHER RIGHTS AND ACTIVITIES PROTECTED BY ARTICLE 33 OF TITLE 29 BY AN ENTITY ENGAGED IN COLLECTIVE BARGAINING, ORGANIZING, OR OTHER RIGHTS AND ACTIVITIES PROTECTED BY ARTICLE 33 OF TITLE 29 IS NOT A REQUEST FOR THE DIRECT SOLICITATION OF BUSINESS FOR PECUNIARY GAIN.

(V) THIS SUBSECTION (3)(f) DOES NOT APPLY TO A CONTRACT OR OTHER INFORMATION DELIVERED USING COMPUTER DATA EXTRACTION METHODS THAT REQUIRE MINIMAL HUMAN INTERVENTION FOR RETRIEVAL.

SECTION 3. In Colorado Revised Statutes, 24-72-204, **amend** (3)(a)(VI) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions - repeal. (3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that the custodian shall make any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, available to the person in interest in accordance with

this subsection (3):

(VI) Except as provided in section 1-2-227, addresses and telephone numbers of students in any public elementary or secondary school AND ANY OTHER INFORMATION OF STUDENTS IN ANY PUBLIC ELEMENTARY OR SECONDARY SCHOOL THAT COULD BE USED BY A PERSON TO DIRECTLY CONTACT, ADDRESS, OR SEND A MESSAGE TO THE STUDENT THROUGH ANY MEANS OR METHOD;

SECTION 4. In Colorado Revised Statutes, 24-72-205, **amend** (6)(a) and (7); and **add** (6)(c) and (8) as follows:

24-72-205. Copy, printout, or photograph of a public record - imposition of research and retrieval fee. (6) (a) A custodian may impose a fee in response to a request for the research and retrieval of public records only if the custodian has, prior to the date of receiving the request, either posted on the custodian's website or otherwise published a written policy that specifies the applicable conditions concerning the research and retrieval of public records by the custodian, including the amount of any current fee. Under any such policy, the custodian shall not impose a charge for the first hour of time expended in connection with the research and retrieval of public records. After the first hour of time has been expended, the custodian may charge a fee for the research and retrieval of public records that shall not exceed thirty dollars per hour. IF REQUESTED, A CUSTODIAN SHALL PROVIDE A REASONABLE BREAK-DOWN OF COSTS THAT COMPRISES THE FEE CHARGED FOR THE RESEARCH AND RETRIEVAL OF PUBLIC RECORDS AUTHORIZED PURSUANT TO THIS SUBSECTION (6)(a).

(c) FOR PURPOSES OF THE FEE CHARGED PURSUANT TO THIS SUBSECTION (6), A CUSTODIAN MAY TREAT A REQUEST FOR PUBLIC RECORDS MADE WITHIN FOURTEEN CALENDAR DAYS OF ANOTHER REQUEST FOR INFORMATION PERTAINING TO FACIALLY SIMILAR CONTENT MADE BY THE SAME PERSON AS ONE REQUEST AND NOT AS MULTIPLE INDIVIDUAL REQUESTS; EXCEPT THAT THIS SUBSECTION (6)(c) DOES NOT APPLY TO REQUESTS MADE BY A MASS MEDIUM, AS DEFINED IN SECTION 13-90-119 (1)(a), OR A NEWSPERSON, AS DEFINED IN SECTION 13-90-119 (1)(c).


(7) If a ~~custodian of a public record requested pursuant to this part~~ **2** PUBLIC ENTITY allows members of the public to pay for any other service or product provided by the ~~custodian~~ PUBLIC ENTITY with a credit card or

electronic payment, ~~the~~ A custodian OF THE PUBLIC ENTITY AND OF A PUBLIC RECORD REQUESTED PURSUANT TO THIS PART 2 must allow the requester of the public record to pay any fee or deposit associated with the request with a credit card or via an electronic payment. The custodian may require a requester to pay any service charge or fee imposed by the processor of a credit card or electronic payment.

(8) IF A CUSTODIAN IMPOSES ANY REQUIREMENTS CONCERNING THE PREPAYMENT OF FEES OR THE PAYMENT OF FEES IN CONNECTION WITH A REQUEST FOR INSPECTION OF PUBLIC RECORDS, THE REQUIREMENTS MUST BE IN ACCORDANCE WITH THE CUSTODIAN'S ADOPTED RULES OR WRITTEN POLICIES PURSUANT TO THIS PART 2 AND MUST NOT BE INCONSISTENT WITH THE PROVISIONS SET FORTH IN THIS SECTION.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; 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 such period, 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 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to requests for public records made pursuant to article 72 of title 24, Colorado Revised Statutes, on or after the applicable effective date of this act.



James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Esther van Mourik
SECRETARY OF
THE SENATE



Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

VETO

DISAPPROVED AND VETOED Thursday April 17, 2025 at
(Date and Time) 3:05 PM



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO