

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0422.01 Michael Dohr x4347

HOUSE BILL 16-1346

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HOUSE SPONSORSHIP

Lawrence,

SENATE SPONSORSHIP

(None),

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House Committees

State, Veterans, & Military Affairs

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING PUBLIC RECORDS THAT ARE SUBJECT TO DENIAL OF  
102 INSPECTION.

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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://www.leg.state.co.us/billsummaries>.)*

The bill allows a custodian to deny access to confidential personal information records and employee personal e-mail addresses. The provisions of the "Colorado Open Records Act" that relate to civil or administrative investigations and trade secrets and other privileged and confidential information apply to the judicial branch.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-72-202, **amend**  
3 (1), (1.1), (1.2), (1.3), and (4.5); and **add** (1.4) as follows:

4 **24-72-202. Definitions.** As used in this part 2, unless the context  
5 otherwise requires:

6 (1) ~~"Correspondence" means a communication that is sent to or~~  
7 ~~received by one or more specifically identified individuals and that is or~~  
8 ~~can be produced in written form, including, without limitation:~~

9 "CONFIDENTIAL PERSONAL INFORMATION" MEANS A PERSON'S HOME  
10 ADDRESS, TELEPHONE NUMBER, SOCIAL SECURITY NUMBER, BIRTH DATE,  
11 BANK ACCOUNT INFORMATION, TAX IDENTIFICATION NUMBER, PERSONAL  
12 SIGNATURE, PERSONAL E-MAIL ADDRESSES, OR SIMILAR UNIQUE  
13 IDENTIFYING INFORMATION OTHER THAN A PERSON'S NAME.

14 ~~(a) Communications sent via U.S. mail;~~

15 ~~(b) Communications sent via private courier;~~

16 ~~(c) Communications sent via electronic mail.~~

17 (1.1) ~~"Custodian" means and includes the official custodian or any~~  
18 ~~authorized person having personal custody and control of the public~~  
19 ~~records in question. "CORRESPONDENCE" MEANS A COMMUNICATION THAT~~

20 IS SENT TO OR RECEIVED BY ONE OR MORE SPECIFICALLY IDENTIFIED  
21 INDIVIDUALS AND THAT IS OR CAN BE PRODUCED IN WRITTEN FORM,  
22 INCLUDING, WITHOUT LIMITATION:

23 (a) COMMUNICATIONS SENT VIA U.S. MAIL;

24 (b) COMMUNICATIONS SENT VIA PRIVATE COURIER;

25 (c) COMMUNICATIONS SENT VIA ELECTRONIC MAIL.

26 (1.2) ~~"Electronic mail" means an electronic message that is~~

1 ~~transmitted between two or more computers or electronic terminals,~~  
2 ~~whether or not the message is converted to hard copy format after receipt~~  
3 ~~and whether or not the message is viewed upon transmission or stored for~~  
4 ~~later retrieval. "Electronic mail" includes electronic messages that are~~  
5 ~~transmitted through a local, regional, or global computer network~~  
6 "CUSTODIAN" MEANS AND INCLUDES THE OFFICIAL CUSTODIAN OR ANY  
7 AUTHORIZED PERSON HAVING PERSONAL CUSTODY AND CONTROL OF THE  
8 PUBLIC RECORDS IN QUESTION.

9 (1.3) ~~"Executive position" means any nonelective employment~~  
10 ~~position with a state agency, institution, or political subdivision, except~~  
11 ~~employment positions in the state personnel system or employment~~  
12 ~~positions in a classified system or civil service system of an institution or~~  
13 ~~political subdivision~~ "ELECTRONIC MAIL" OR "E-MAIL" MEANS AN  
14 ELECTRONIC MESSAGE THAT IS TRANSMITTED BETWEEN TWO OR MORE  
15 COMPUTERS OR ELECTRONIC TERMINALS, WHETHER OR NOT THE MESSAGE  
16 IS CONVERTED TO HARD COPY FORMAT AFTER RECEIPT AND WHETHER OR  
17 NOT THE MESSAGE IS VIEWED UPON TRANSMISSION OR STORED FOR LATER  
18 RETRIEVAL. "ELECTRONIC MAIL" OR "E-MAIL" INCLUDES ELECTRONIC  
19 MESSAGES THAT ARE TRANSMITTED THROUGH A LOCAL, REGIONAL, OR  
20 GLOBAL COMPUTER NETWORK.

21 (1.4) "EXECUTIVE POSITION" MEANS ANY NONELECTIVE  
22 EMPLOYMENT POSITION WITH A STATE AGENCY, INSTITUTION, OR  
23 POLITICAL SUBDIVISION, EXCEPT EMPLOYMENT POSITIONS IN THE STATE  
24 PERSONNEL SYSTEM OR EMPLOYMENT POSITIONS IN A CLASSIFIED SYSTEM  
25 OR CIVIL SERVICE SYSTEM OF AN INSTITUTION OR POLITICAL SUBDIVISION.

26 (4.5) "Personnel files" means and includes home addresses,  
27 telephone numbers, PERSONAL E-MAIL ADDRESSES, financial information,

1 and other information maintained because of the employer-employee  
2 relationship, and other documents specifically exempt from disclosure  
3 under this part 2 or any other provision of law. "Personnel files" does not  
4 include applications of past or current employees, employment  
5 agreements, any amount paid or benefit provided incident to termination  
6 of employment, performance ratings, final sabbatical reports required  
7 under section 23-5-123, C.R.S., or any compensation, including expense  
8 allowances and benefits, paid to employees by the state, its agencies,  
9 institutions, or political subdivisions.

10 **SECTION 2.** In Colorado Revised Statutes, 24-72-204, **amend**  
11 (3) (a) (IV) and (3) (a) (XI) (A); and **add** (2) (a) (IX) (E) and (2) (a) (X)  
12 as follows:

13 **24-72-204. Allowance or denial of inspection - grounds -**  
14 **procedure - appeal - definitions.** (2) (a) The custodian may deny the  
15 right of inspection of the following records, unless otherwise provided by  
16 law, on the ground that disclosure to the applicant would be contrary to  
17 the public interest:

18 (IX) (E) THIS SUBPARAGRAPH (IX) ALSO APPLIES TO THE JUDICIAL  
19 BRANCH.

20 (X) ANY CONFIDENTIAL PERSONAL INFORMATION.

21 (3) (a) The custodian shall deny the right of inspection of the  
22 following records, unless otherwise provided by law; except that any of  
23 the following records, other than letters of reference concerning  
24 employment, licensing, or issuance of permits, shall be available to the  
25 person in interest under this subsection (3):

26 (IV) (A) Trade secrets privileged information, and confidential  
27 commercial, financial, geological, or geophysical data, including a social

1 security number unless disclosure of the number is required, permitted,  
2 or authorized by state or federal law, furnished by or obtained from any  
3 person.

4 (B) THIS SUBPARAGRAPH (IV) ALSO APPLIES TO THE JUDICIAL  
5 BRANCH.

6 (XI) (A) Records submitted by or on behalf of an applicant or  
7 candidate for an executive position as defined in section 24-72-202 ~~(1.3)~~  
8 (1.4) who is not a finalist. For purposes of this subparagraph (XI),  
9 "finalist" means an applicant or candidate for an executive position as the  
10 chief executive officer of a state agency, institution, or political  
11 subdivision or agency thereof who is a member of the final group of  
12 applicants or candidates made public pursuant to section 24-6-402 (3.5),  
13 and if only three or fewer applicants or candidates for the chief executive  
14 officer position possess the minimum qualifications for the position, said  
15 applicants or candidates shall be considered finalists.

16 **SECTION 3. Act subject to petition - effective date.** This act  
17 takes effect at 12:01 a.m. on the day following the expiration of the  
18 ninety-day period after final adjournment of the general assembly (August  
19 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
20 referendum petition is filed pursuant to section 1 (3) of article V of the  
21 state constitution against this act or an item, section, or part of this act  
22 within such period, then the act, item, section, or part will not take effect  
23 unless approved by the people at the general election to be held in  
24 November 2016 and, in such case, will take effect on the date of the  
25 official declaration of the vote thereon by the governor.