

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0153.01 Bob Lackner x4350

SENATE BILL 17-040

SENATE SPONSORSHIP

Kefalas, Gardner

HOUSE SPONSORSHIP

Pabon,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PUBLIC ACCESS TO FILES MAINTAINED BY**
102 **GOVERNMENTAL BODIES.**

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/>.)

Section 2 of the bill modifies the "Colorado Open Records Act" (CORA) by creating new procedures governing the inspection of public records that are stored as structured data. **Section 1** defines key terms including "structured data", which the bill defines as digital data that is stored in a fixed field within a record or file that is capable of being automatically read, processed, or manipulated by a computer.

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.*

If public records are stored as structured data, section 2 requires the custodian of the public records to provide an accurate copy of the public records in a structured data format when requested. If public records are not stored as structured data but are stored in an electronic or digital form and are searchable in their native format, the custodian is required to provide a copy of the public records in a format that is searchable when requested.

Section 2 specifies the circumstances that exempt the custodian from having to produce records in a searchable or structured data format.

If a custodian is not able to comply with a request to produce public records in a requested format, the custodian is required to produce the records in an alternate format and to provide a written declaration attesting to the reasons the custodian is not able to produce the records in the requested format. If a court subsequently rules the custodian should have provided the data in the requested format but that the custodian reasonably believed, based upon the reasons stated in the written declaration, that the data could not be produced in the requested format, attorney fees may be awarded only if the custodian's action was arbitrary or capricious.

Nothing in the bill requires a custodian to produce records in their native format.

Section 3 expands the grounds permitting the filing of a civil action seeking inspection of a public record to include an allegation of a violation of the digital format provisions in the bill or a violation of record transmission provisions specified in CORA. This section also specifies that altering an existing record, or excising fields of information, to remove information that the custodian is required or allowed to withhold does not constitute the creation of a new public record. Such alteration or excision may be subject to a research and retrieval fee or a fee for the programming of data as allowed under existing provisions of CORA.

Section 4 modifies CORA provisions governing the copy, printout, or photograph of a public record and the imposition of a research and retrieval fee. Among these modifications:

- ! The bill deletes existing statutory language permitting the custodian to charge the same fee for services rendered in supervising the copying, printing out, or photographing of a public record as the custodian may charge for furnishing a copy, printout, or photograph;
- ! The bill replaces a reference in the statute to the phrase "manipulation of data" with the phrase "programming, coding, or custom search queries so as to convert a record into a structured data or searchable format";
- ! In connection with determining the amount of the fee for a paper or electronic copy of a public record, the bill

specifies that, if a custodian performs programming, coding, or custom search queries to create a public record, the fee for a paper or electronic copy of that record may be based on recovery of the actual or incremental costs of performing the programming, coding, or custom search queries, together with a reasonable portion of the costs associated with building and maintaining the information systems; and

! When a person makes a request to inspect or make copies or images of original public records, the bill permits the custodian to charge a fee for the time required for the custodian to supervise the handling of the records, when such supervision is necessary to protect the integrity or security of the original records.

Section 5 repeals the existing criminal misdemeanor offense and penalty for a willful and knowing violation of CORA.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds, determines, and declares that Colorado has a long and strong
4 tradition of open and transparent government. For Colorado taxpayers to
5 have confidence in the actions and activities of their government, it is
6 imperative that they have access to the public records of these
7 governments. The "Colorado Open Records Act" provides, with very
8 specific exceptions, access to government records to members of the
9 public. As technology now allows the public to access records in digital
10 formats, it is important that Colorado law reflect the new technology to
11 give the public access to records in digital formats that make it easier for
12 them to see and understand government records. Senate Bill 17-040 sets
13 parameters for information to be released in digital formats while
14 ensuring that records custodians provide public records in ways that
15 ensure that only those public records that are subject to disclosure are
16 released. Senate Bill 17-040 makes no changes to what public records are

1 available for, or protected from disclosure, regardless of the medium in
2 which the public records are maintained, consistent with existing law.
3 Current law governing which public records are confidential and not
4 subject to disclosure and those that must be released remains unchanged.

5 **SECTION 2.** In Colorado Revised Statutes, 24-72-202, **amend**
6 **(6)(a)(I) and (7);** and **add** (2.3), (6.3), and (6.4) as follows:

7 **24-72-202. Definitions.** As used in this part 2, unless the context
8 otherwise requires:

9 (2.3) "NATIVE FORMAT" MEANS THE FORMAT IN WHICH A FILE OR
10 DATABASE CONFIGURATION OR SCHEMA WAS ORIGINALLY CREATED OR IS
11 STORED ON THE CUSTODIAN'S COMPUTER OR SERVER.

12 (6) (a) (I) "Public records" means and includes all writings made,
13 maintained, or kept by the state, any agency, institution, a nonprofit
14 corporation incorporated pursuant to section 23-5-121 (2), C.R.S., or
15 political subdivision of the state, or that are described in section 29-1-902
16 C.R.S., and held by any local-government-financed entity for use in the
17 exercise of functions required or authorized by law or administrative rule
18 or involving the receipt or expenditure of public funds. FOR PURPOSES OF
19 THIS PART 2, THE TERMS "STATE" AND "AGENCY" INCLUDE THE JUDICIAL
20 DEPARTMENT OF STATE GOVERNMENT.

21 (6.3) "SEARCHABLE" MEANS CAPABLE OF BEING READ BY A
22 COMPUTER.

23 (6.4) "STRUCTURED DATA" MEANS DIGITAL DATA THAT IS STORED
24 IN A FIXED FIELD WITHIN A RECORD OR FILE THAT IS CAPABLE OF BEING
25 AUTOMATICALLY READ, PROCESSED, OR MANIPULATED BY A COMPUTER.
26 "STRUCTURED DATA" INCLUDES DATA CONTAINED IN RELATIONAL
27 DATABASES AND SPREADSHEETS.

1 (7) "Writings" means and includes all books, papers, maps,
2 photographs, cards, tapes, recordings, or other documentary materials,
3 regardless of physical form or characteristics. "Writings" includes
4 digitally stored data, including without limitation electronic mail
5 messages. ~~but does not include computer software.~~ "WRITINGS" DOES NOT
6 INCLUDE A COMPUTER PROGRAM OR SOFTWARE, BUT DOES INCLUDE THE
7 INFORMATION USED AS INPUT FOR THE COMPUTER PROGRAM AND THE
8 INFORMATION PRODUCED AS A PRODUCT OF THE COMPUTER PROGRAM,
9 EXCEPT AS OTHERWISE PROVIDED BY LAW.

10 **SECTION 3.** In Colorado Revised Statutes, 24-72-203, **add**
11 **(2)(c)** as follows:

12 **24-72-203. Public records open to inspection.** (2) (c) IF THE
13 CUSTODIAN HAS MADE THE REQUESTED RECORDS PUBLICLY AVAILABLE IN
14 A STRUCTURED DATA FORMAT, THE CUSTODIAN MAY SATISFY THE
15 REQUEST BY REDIRECTING THE REQUESTER, IN WRITING AND IN DETAIL, TO
16 THE LOCATION OF THE RECORDS.

17 **SECTION 4.** In Colorado Revised Statutes, **add** 24-72-203.5 as
18 follows:

19 **24-72-203.5. Storage of records as structured data - request**
20 **for copies - definition.** (1) (a) EXCEPT AS OTHERWISE REQUIRED BY
21 SUBSECTION (1)(b) OF THIS SECTION:

22 (I) IF PUBLIC RECORDS ARE STORED AS STRUCTURED DATA, THE
23 CUSTODIAN SHALL PROVIDE AN ACCURATE COPY OF THE PUBLIC RECORDS
24 IN A STRUCTURED DATA FORMAT WHEN REQUESTED; AND

25 (II) IF PUBLIC RECORDS ARE NOT STORED AS STRUCTURED DATA
26 BUT ARE STORED IN AN ELECTRONIC OR DIGITAL FORM AND ARE
27 SEARCHABLE IN THEIR NATIVE FORMAT, THE CUSTODIAN SHALL PROVIDE

1 A COPY OF THE PUBLIC RECORDS IN A FORMAT THAT IS SEARCHABLE WHEN
2 REQUESTED.

3 (b) A CUSTODIAN IS NOT REQUIRED TO PRODUCE RECORDS IN A
4 SEARCHABLE OR STRUCTURED DATA FORMAT IN ACCORDANCE WITH
5 SUBSECTION (1)(a) OF THIS SECTION IF:

6 (I) AFTER MAKING REASONABLE INQUIRIES WITHIN THE ENTITY,
7 THE CUSTODIAN CONCLUDES THAT IT IS NOT TECHNOLOGICALLY OR
8 PRACTICALLY FEASIBLE TO PRODUCE AN ACCURATE COPY OF THE
9 REQUESTED INFORMATION IN A SEARCHABLE OR STRUCTURED FORMAT;

10 (II) THE CUSTODIAN WOULD BE REQUIRED TO PURCHASE
11 SOFTWARE OR HARDWARE, OR TO CREATE ADDITIONAL PROGRAMMING OR
12 FUNCTIONALITY IN ITS EXISTING SOFTWARE OR HARDWARE, TO
13 ACCOMMODATE THE REQUEST;

14 (III) PRODUCING THE DATA IN THE REQUESTED FORMAT WOULD
15 VIOLATE THE TERMS OF ANY COPYRIGHT OR LICENSING AGREEMENT
16 BETWEEN THE CUSTODIAN AND A THIRD PARTY OR RESULT IN THE RELEASE
17 OF A THIRD PARTY'S PROPRIETARY INFORMATION; OR

18 (IV) IT IS NOT TECHNOLOGICALLY FEASIBLE TO PERMANENTLY
19 REMOVE INFORMATION THAT THE CUSTODIAN IS REQUIRED OR ALLOWED
20 TO WITHHOLD WITHIN THE REQUESTED FORMAT, OR THE CUSTODIAN
21 WOULD BE REQUIRED TO PURCHASE SOFTWARE OR CREATE ADDITIONAL
22 PROGRAMMING OR FUNCTIONALITY IN ITS EXISTING SOFTWARE TO REMOVE
23 THE INFORMATION.

24 (2) IF A CUSTODIAN IS NOT ABLE TO COMPLY WITH A REQUEST TO
25 PRODUCE PUBLIC RECORDS THAT ARE SUBJECT TO DISCLOSURE IN A
26 REQUESTED FORMAT SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION, THE
27 CUSTODIAN MUST PRODUCE THE RECORDS IN AN ALTERNATE FORMAT OR

1 ISSUE A DENIAL UNDER SECTION 24-72-204 AND SHALL PROVIDE A
2 WRITTEN DECLARATION ATTESTING TO THE REASONS THE CUSTODIAN IS
3 NOT ABLE TO PRODUCE THE RECORDS IN THE REQUESTED FORMAT. IF A
4 COURT SUBSEQUENTLY RULES THE CUSTODIAN SHOULD HAVE PROVIDED
5 THE DATA IN THE REQUESTED FORMAT, ATTORNEY FEES MAY BE AWARDED
6 ONLY IF THE CUSTODIAN'S ACTION WAS ARBITRARY OR CAPRICIOUS.

7 (3) NOTHING IN THIS SECTION REQUIRES A CUSTODIAN TO PRODUCE
8 RECORDS IN THEIR NATIVE FORMAT OR TO RELEASE METADATA.

9 (4) WHEN A CUSTODIAN PRODUCES RECORDS IN A SEARCHABLE OR
10 STRUCTURED FORMAT IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS
11 SECTION, THE CHOICE OF FORMAT IS IN THE SOLE DISCRETION OF THE
12 CUSTODIAN.

13 (5) FOR PURPOSES OF THIS SECTION, "ACCURATE COPY" MEANS A
14 RECORD THAT IS A TRUE AND CORRECT REPRESENTATION OF THE ORIGINAL
15 DATA AT THE TIME THE COPY IS GENERATED.

16 (6) NOTHING IN THIS SECTION RELIEVES OR MITIGATES THE
17 OBLIGATIONS OF A CUSTODIAN TO PRODUCE RECORDS IN A FORMAT
18 ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES IN ACCORDANCE WITH
19 TITLE II OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT", 42
20 U.S.C. SEC. 12131 ET. SEQ., AND OTHER FEDERAL OR STATE LAWS.

21 **SECTION 5.** In Colorado Revised Statutes, 24-72-204, **amend**
22 **(5); and add (2)(a)(X), (2)(a)(XI), and (9) as follows:**

23 **24-72-204. Allowance or denial of inspection - grounds -**
24 **procedure - appeal - definitions.** (2) (a) The custodian may deny the
25 right of inspection of the following records, unless otherwise provided by
26 law, on the ground that disclosure to the applicant would be contrary to
27 the public interest:

1 (X) SOFTWARE PROGRAMS; NETWORK AND SYSTEMS
2 ARCHITECTURAL DESIGNS; SOURCE CODE; SOURCE DOCUMENTATION;
3 INFORMATION IN TANGIBLE OR INTANGIBLE FORM RELATING TO RELEASED
4 AND UNRELEASED SOFTWARE OR HARDWARE, DATABASE DESIGN
5 STRUCTURES, DATABASE SCHEMA AND ARCHITECTURE, SECURITY
6 STRUCTURES AND ARCHITECTURE, AND DATA STORED IN SUPPORT
7 STRUCTURES; AGENCY ORIGINAL DESIGN IDEAS; NONPUBLIC BUSINESS
8 POLICIES AND PRACTICES RELATING TO SOFTWARE DEVELOPMENT AND
9 USE; AND THE TERMS AND CONDITIONS OF ANY ACTUAL OR PROPOSED
10 LICENSE AGREEMENT OR OTHER AGREEMENT CONCERNING THE PRODUCTS
11 AND LICENSING NEGOTIATIONS.

12 (XI) ANY RECORDS THE INSPECTION OF WHICH IS REASONABLY
13 LIKELY TO COMPROMISE THE SAFETY OR SECURITY OF ANY NATURAL
14 PERSON.

15 (5) Except as provided in subsection (5.5) of this section, any
16 person denied the right to inspect any record covered by this part 2, OR
17 WHO ALLEGES A VIOLATION OF DIGITAL FORMAT PROVISIONS UNDER
18 SECTION 24-72-203.5 OR A VIOLATION OF RECORD TRANSMISSION
19 PROVISIONS SPECIFIED IN SECTION 24-72-205, may apply to the district
20 court of the district wherein the record is found for an order directing the
21 custodian of such record to show cause why the custodian should not
22 permit the inspection of such record; except that, at least three business
23 days prior to filing an application with the district court, the person who
24 has been denied the right to inspect the record shall file a written notice
25 with the custodian who has denied the right to inspect the record
26 informing said custodian that the person intends to file an application
27 with the district court. Hearing on such application shall be held at the

1 earliest practical time. Unless the court finds that the denial of the right
2 of inspection was proper, it shall order the custodian to permit such
3 inspection and shall award court costs and reasonable attorney fees to the
4 prevailing applicant in an amount to be determined by the court; except
5 that no court costs and attorney fees shall be awarded to a person who has
6 filed a lawsuit against a state public body or local public body and who
7 applies to the court for an order pursuant to this subsection (5) for access
8 to records of the state public body or local public body being sued if the
9 court finds that the records being sought are related to the pending
10 litigation and are discoverable pursuant to chapter 4 of the Colorado rules
11 of civil procedure. In the event the court finds that the denial of the right
12 of inspection was proper, the court shall award court costs and reasonable
13 attorney fees to the custodian if the court finds that the action was
14 frivolous, vexatious, or groundless. IN ANY CASE ALLEGING A VIOLATION
15 OF DIGITAL FORMAT PROVISIONS, THE ATTORNEY FEE PROVISIONS
16 SPECIFIED IN SECTION 24-72-203.5 (2) MUST APPLY.

17 (9) ALTERING AN EXISTING PUBLIC RECORD, OR EXCISING FIELDS OF
18 INFORMATION, TO REMOVE INFORMATION THAT THE CUSTODIAN IS
19 REQUIRED OR ALLOWED TO WITHHOLD DOES NOT CONSTITUTE THE
20 CREATION OF A NEW PUBLIC RECORD. SUCH ALTERATION OR EXCISION MAY
21 BE SUBJECT TO A RESEARCH AND RETRIEVAL FEE OR A FEE FOR THE
22 PROGRAMMING OF DATA AS ALLOWED UNDER SECTION 24-72-205.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-72-205 as
24 follows:

25 **24-72-205. Copy, printout, or photograph of a public record**
26 **- imposition of research and retrieval fee.** (1) (a) In all cases in which
27 a person has the right to inspect a public record, the person may request

1 a copy, printout, or photograph of the record. The custodian shall furnish
2 a copy, printout, or photograph and may charge a fee determined in
3 accordance with ~~subsection (5)~~ of this section; except that, when the
4 custodian is the secretary of state, fees shall be determined and collected
5 pursuant to section 24-21-104 (3), and when the custodian is the
6 executive director of the department of personnel, fees shall be
7 determined and collected pursuant to section 24-80-102 (10). Where the
8 fee for a certified copy or other copy, printout, or photograph of a record
9 is specifically prescribed by law, the specific fee shall apply.

10 (b) Upon request for records transmission by a person seeking a
11 copy of any public record, the custodian shall transmit a copy of the
12 record by United States mail, other delivery service, facsimile, or
13 electronic mail. No transmission fees may be charged to the record
14 requester for transmitting public records via electronic mail. Within the
15 period specified in section 24-72-203 (3)(a), the custodian shall notify the
16 record requester that a copy of the record is available but will only be sent
17 to the requester once the custodian either receives payment or makes
18 arrangements for receiving payment for all costs associated with records
19 transmission and for all other fees lawfully allowed, unless recovery of
20 all or any portion of such costs or fees has been waived by the custodian.
21 Upon either receiving such payment or making arrangements to receive
22 such payment at a later date, the custodian shall send the record to the
23 requester as soon as practicable but no more than three business days after
24 receipt of, or making arrangements to receive, such payment.

25 (2) If the custodian does not have facilities for making a copy,
26 printout, or photograph of a record that a person has the right to inspect,
27 the person shall be granted access to the record for the purpose of making

1 a copy, printout, or photograph. The copy, printout, or photograph shall
2 be made while the record is in the possession, custody, and control of the
3 custodian thereof and shall be subject to the supervision of the custodian.
4 When practical, the copy, printout, or photograph shall be made in the
5 place where the record is kept, but if it is impractical to do so, the
6 custodian may allow arrangements to be made for the copy, printout, or
7 photograph to be made at other facilities. If other facilities are necessary,
8 the cost of providing them shall be paid by the person desiring a copy,
9 printout, or photograph of the record. The custodian may establish a
10 reasonable schedule of times for making a copy, printout, or photograph.
11 ~~and may charge the same fee for the services rendered in supervising the~~
12 ~~copying, printing out, or photographing as the custodian may charge for~~
13 ~~furnishing a copy, printout, or photograph under subsection (5) of this~~
14 ~~section.~~

15 (3) If, in response to a specific request, the state or any of its
16 agencies, institutions, or political subdivisions has performed a
17 ~~manipulation of data~~ PROGRAMMING, CODING, OR CUSTOM SEARCH
18 QUERIES SO AS TO CONVERT A RECORD INTO A STRUCTURED DATA OR
19 SEARCHABLE FORMAT so as to generate a record in a form not used by the
20 state or by said agency, institution, or political subdivision, a reasonable
21 fee may be charged to the person making the request. Such fee shall not
22 exceed the actual cost of ~~manipulating the said data~~ PROGRAMMING,
23 CODING, OR CUSTOM SEARCH QUERIES and generating the said record in
24 accordance with the request. Persons making subsequent requests for the
25 same or similar records may be charged a fee not in excess of the original
26 fee.

27 (4) ~~If the public record is a result of computer output other than~~

1 ~~word processing, the fee for a copy, printout, or photograph thereof may~~
2 ~~be based on recovery of the actual incremental costs of providing the~~
3 ~~electronic services and products together with a reasonable portion of the~~
4 ~~costs associated with building and maintaining the information system.~~
5 ~~Such fee may be reduced or waived by the custodian if the electronic~~
6 ~~services and products are to be used for a public purpose, including public~~
7 ~~agency program support, nonprofit activities, journalism, and academic~~
8 ~~research. Fee reductions and waivers shall be uniformly applied among~~
9 ~~persons who are similarly situated~~ IF A CUSTODIAN PERFORMS
10 PROGRAMMING, CODING, OR CUSTOM SEARCH QUERIES TO CREATE A PUBLIC
11 RECORD, THE FEE FOR A PAPER OR ELECTRONIC COPY OF THAT RECORD MAY
12 BE BASED ON RECOVERY OF THE ACTUAL OR INCREMENTAL COSTS OF
13 PERFORMING THE PROGRAMMING, CODING, OR CUSTOM SEARCH QUERIES,
14 TOGETHER WITH A REASONABLE PORTION OF THE COSTS ASSOCIATED WITH
15 BUILDING AND MAINTAINING THE INFORMATION SYSTEMS.

16 (5) (a) A custodian may charge a fee not to exceed twenty-five
17 cents per standard page for a PAPER copy of a public record or a fee not to
18 exceed the actual cost of providing a copy, printout, or photograph of a
19 public record in a format other than a standard page.

20 (b) Notwithstanding ~~paragraph (a) of this subsection (5)~~
21 SUBSECTIONS (4) AND (5)(a) OF THIS SECTION, an institution, as defined in
22 section 24-72-202 (1.5), that is the custodian of scholastic achievement
23 data on an individual person may charge a reasonable fee for a certified
24 transcript of the data.

25 (6) (a) A custodian may impose a fee in response to a request for
26 the research and retrieval of public records only if the custodian has, prior
27 to the date of receiving the request, either posted on the custodian's

1 website or otherwise published a written policy that specifies the
2 applicable conditions concerning the research and retrieval of public
3 records by the custodian, including the amount of any current fee. Under
4 any such policy, the custodian shall not impose a charge for the first hour
5 of time expended in connection with the research and retrieval of public
6 records. After the first hour of time has been expended, the custodian may
7 charge a fee for the research and retrieval of public records that shall not
8 exceed thirty dollars per hour.

9 (b) WHEN A PERSON HAS MADE A REQUEST TO INSPECT OR MAKE
10 COPIES OR IMAGES OF ORIGINAL PUBLIC RECORDS, THE CUSTODIAN MAY
11 CHARGE A FEE IN ACCORDANCE WITH SUBSECTION (6)(a) OF THIS SECTION
12 FOR THE TIME REQUIRED FOR THE CUSTODIAN TO SUPERVISE THE HANDLING
13 OF THE RECORDS, WHEN SUCH SUPERVISION IS NECESSARY TO PROTECT THE
14 INTEGRITY OR SECURITY OF THE ORIGINAL RECORDS.

15 ~~(b)~~ (c) On July 1, 2019, and by July 1 of every five-year period
16 thereafter, the director of research of the legislative council appointed
17 pursuant to section 2-3-304 (1) C.R.S., shall adjust the maximum hourly
18 fee specified in ~~paragraph (a) of this subsection (6)~~ SUBSECTION (6)(a) OF
19 THIS SECTION in accordance with the percentage change over the period
20 in the United States department of labor, bureau of labor statistics,
21 consumer price index for Denver-Boulder-Greeley, all items, all urban
22 consumers, or its successor index. The director of research shall post the
23 adjusted maximum hourly fee on the website of the general assembly.

24 **SECTION 7.** In Colorado Revised Statutes, **repeal** 24-72-206 as
25 follows:

26 **24-72-206. Violation - penalty.** ~~Any person who willfully and~~
27 ~~knowingly violates the provisions of this part 2 is guilty of a misdemeanor~~

1 and, upon conviction thereof, shall be punished by a fine of not more than
2 one hundred dollars, or by imprisonment in the county jail for not more
3 than ninety days, or by both such fine and imprisonment.

4 **SECTION 8. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2018 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.