

Addendum F

Proposed Recommended Changes to Retention of Records Policy for Records of the Office of Legislative Legal Services

RECORDS CREATED AND MAINTAINED BY THE OFFICE OF LEGISLATIVE LEGAL SERVICES (“OLLS”) ARE SUBJECT TO THE FOLLOWING RETENTION OF RECORDS POLICY ADOPTED BY THE EXECUTIVE COMMITTEE ON ____ (FILL IN DATE):

- 1) ~~"Members Files" comprised of bill requests and amendment requests made by members of the general assembly should be retained.~~ IN COMPLIANCE WITH THE REQUIREMENT TO KEEP LEGISLATIVE BILL FILES SET FORTH IN SECTION 2-3-504 (1) (e), C.R.S., THE OLLS SHALL RETAIN FOR A PERIOD OF EIGHT YEARS THE MEMBER FILES OF EACH MEMBER OF THE GENERAL ASSEMBLY FOR A PARTICULAR SESSION. MEMBER FILES ARE FILES CREATED BY THE OLLS THAT CONTAIN BILL REQUESTS AND AMENDMENT REQUESTS MADE BY MEMBERS OF THE GENERAL ASSEMBLY. ONCE THE MEMBER FILES FOR A LEGISLATIVE SESSION HAVE BEEN HELD FOR EIGHT YEARS, THE OLLS SHALL DESTROY THE FILES FOR THAT SESSION BY SHREDDING.
- 2) PURSUANT TO SECTIONS 2-3-504 (1) (e) AND 24-72-202 (6.5) (b) (I) AND (II), C.R.S., THE MEMBER FILES RETAINED BY THE OLLS IN ACCORDANCE WITH SUBSECTION 1) OF THIS POLICY ARE SUBJECT TO A WORK-PRODUCT EXCEPTION UNDER THE COLORADO OPEN RECORDS ACT (“CORA”). THE FOLLOWING PROCEDURES APPLY TO THOSE FILES IF THERE IS A REQUEST MADE TO THE OLLS FOR ACCESS TO THE FILE OR TO A SPECIFIC RECORD IN THE FILE:
 - a. MEMBER FILES ARE WORK PRODUCT AND REMAIN CONFIDENTIAL PURSUANT TO SECTION 2-3-505 (2) (b) (I) AND (II), C.R.S., AND WILL NOT BE RELEASED, UNLESS THE PERSON REQUESTING THE FILE OR A SPECIFIC RECORD IN THE FILE OBTAINS THE WRITTEN PERMISSION OF THE APPLICABLE MEMBER OR FORMER MEMBER OF THE GENERAL ASSEMBLY TO RELEASE THE REQUESTED MEMBER FILE OR RECORD IN THE FILE. THE OLLS WILL PROVIDE THE LAST KNOWN CONTACT INFORMATION ON FILE WITH OLLS TO THE REQUESTER IF THE MEMBER IS NO LONGER SERVING IN THE GENERAL ASSEMBLY.
 - b. IF THE FORMER MEMBER IS DECEASED, THE OLLS WILL NOT RELEASE THE APPLICABLE MEMBER FILES BECAUSE THE WORK-PRODUCT PRIVILEGE SURVIVES THE

DEATH OF THE DECEASED MEMBER AND NO OTHER PERSON CAN WAIVE THAT PRIVILEGE.

~~2) Copies of different versions of bills should be retained. However, once those records have been microfilmed, they may be discarded.~~

[Bills are now stored on CLICS and on the Internet - OLLS and the joint library no longer retain copies of versions of the bills so this duty should be eliminated.]

3) THE OLLS MAY DISCARD extra hardbound volumes and supplements to the Colorado Revised Statutes AND SESSION LAWS ~~which~~ THAT are over fifteen years old ~~may be discarded.~~

4) THE OLLS MAY DISCARD EXTRA SOFTBOUND VOLUMES OF THE COLORADO REVISED STATUTES AND THE SESSION LAWS THAT ARE OVER ONE YEAR OLD.

[The OLLS only prints softbound volumes.]

5) TWO YEARS AFTER AN ADMINISTRATIVE RULE IS SUBMITTED TO THE OLLS BY AN EXECUTIVE BRANCH AGENCY FOR PURPOSES OF OLLS REVIEW, THE OLLS MAY DISPOSE OF ~~the second copy of~~ OLLS RULE REVIEW FORM, THE ADMINISTRATIVE RULE FILING INFORMATION FORM, AND ANY MATERIALS ATTACHED TO THE FORMS, INCLUDING THE RULE IF PRINTED BY THE OLLS STAFF, ~~rules and regulations that are submitted by executive branch agencies for purposes of the review of rules and regulations by the OLLS may be disposed of after two years.~~

[Rules are no longer submitted in paper copy to SOS or OLLS, so OLLS no longer requires 2nd copies. Since rules are filed electronically, the staff reviews rules electronically and staff has discretion to not print out the rules. The OLLS rule review form, the filing information form, and any attachments are kept for 2 years.]

6) ~~Rules and regulations which have been reviewed by the OLLS may be disposed of after five years.~~ The OLLS SHALL RETAIN ELECTRONIC docket books of submissions of rules ~~shall be retained in order to have~~ PRESERVE a record upon which to certify the submission of rules pursuant to section 24-4-103 (8) (d), C.R.S., AND TO COMPILE INFORMATION ON THE REVIEW OF RULES BY THE OLLS.

[The online CCR publication on the Secretary of State's website contains past versions of the rules back to 2007, thus there is no reason for OLLS to maintain paper versions of previously adopted and previously reviewed rules. Rule Review Memos and the COLS minutes of any rule issues are also retrievable through OLLS computer systems.]

7) ~~The replacement pages for the Colorado Code of Regulations (CCR) may be disposed of after two years.~~

[This portion can be eliminated. Since the CCR is now accessible online on the Secretary of States' website and to save money, the OLLS no longer buys a hard copy of the CCR.]

7) THE OLLS MAY DISPOSE OF THE WORK files of ~~records of~~ former staff attorneys of the OLLS ~~may be disposed of~~ at the direction of the director of the ~~Office of Legislative Legal Services~~ OLLS. The director shall take into consideration whether those files may be useful to the office in determining legislative intent or may involve subject matter that may be useful to the office in carrying out its duties.

~~9) The general correspondence of the Office of Legislative Legal Services may be disposed of at the direction of the director of the Office of Legislative Legal Services after two years.~~

[The OLLS does not currently keep or maintain correspondence in central files. Each staff member retains paper or electronic copies of correspondence necessary to complete his or her own assignments.]

8) THE OLLS SHALL RETAIN AN ELECTRONIC COPY OF ANY LEGAL OPINION OR LEGAL MEMORANDUM PREPARED FOR A MEMBER. LEGAL OPINIONS OR LEGAL MEMORANDUMS PREPARED BY THE OLLS ARE CONSIDERED WORK PRODUCT AND WILL NOT BE RELEASED UNLESS THE LEGISLATOR HAS WAIVED WORK-PRODUCT PRIVILEGE OR DIRECTS THE OLLS TO RELEASE THE LEGAL OPINION OR LEGAL MEMORANDUM.

[The retention of records policy should address the retention of legal opinions and legal memorandums. These are stored electronically in a separate database maintained by the OLLS.]

Addendum G

Final Version of Proposed Recommended Changes to Retention of Records Policy for Records of the Office of Legislative Legal Services

Records created and maintained by the Office of Legislative Legal Services (“OLLS”) are subject to the following retention of records policy adopted by the Executive Committee on ____ (fill in date):

- 1) In compliance with the requirement to keep legislative bill files set forth in section 2-3-504 (1) (e), C.R.S., the OLLS shall retain for a period of eight years the member files of each member of the general assembly for a particular session. Member files are files created by the OLLS that contain bill requests and amendment requests made by members of the general assembly. Once the member files for a legislative session have been held for eight years, the OLLS shall destroy the files for that session by shredding.
- 2) Pursuant to sections 2-3-504 (1) (e) and 24-72-202 (6.5) (b) (I) and (II), C.R.S., the member files retained by the OLLS in accordance with subsection 1) of this policy are subject to a work-product exception under the Colorado Open Records Act (“CORA”). The following procedures apply to those files if there is a request made to the OLLS for access to the file or to a specific record in the file:
 - a. Member files are work product and remain confidential pursuant to section 2-3-505 (2) (b) (I) and (II), C.R.S., and will not be released, unless the person requesting the file or a specific record in the file obtains the written permission of the applicable member or former member of the general assembly to release the requested member file or record in the file. The OLLS will provide the last known contact information on file with OLLS to the requester if the member is no longer serving in the general assembly.
 - b. If the former member is deceased, the OLLS will not release the applicable member files because the work-product privilege survives the death of the deceased member and no other person can waive that privilege.

- 3) The OLLS may discard extra hardbound volumes and supplements to the Colorado Revised Statutes and session laws that are over fifteen years old.
- 4) The OLLS may discard extra softbound volumes of the Colorado Revised Statutes and the session laws that are over one year old.
- 5) Two years after an administrative rule is submitted to the OLLS by an executive branch agency for purposes of OLLS review, the OLLS may dispose of the OLLS rule review form, the administrative rule filing information form, and any materials attached to the forms, including the rule if printed by the OLLS staff.
- 6) The OLLS shall retain electronic docket books of submissions of rules to preserve a record upon which to certify the submission of rules pursuant to section 24-4-103 (8) (d), C.R.S., and to compile information on the review of rules by the OLLS.
- 7) The OLLS may dispose of the work files of former staff attorneys of the OLLS at the direction of the director of the OLLS. The director shall take into consideration whether those files may be useful to the office in determining legislative intent or may involve subject matter that may be useful to the office in carrying out its duties.
- 8) The OLLS shall retain an electronic copy of any legal opinion or legal memorandum prepared for a member. Legal opinions or legal memorandums prepared by the OLLS are considered work product and will not be released unless the legislator has waived work-product privilege or directs the OLLS to release the legal opinion or legal memorandum.