A BILL FOR AN ACT

CONCERNING PUBLIC ACCESS TO FILES MAINTAINED BY GOVERNMENTAL BODIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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.

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.

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

SECTION 1. Legislative declaration. The general assembly finds, determines, and declares that Colorado has a long and strong tradition of open and transparent government. For Colorado taxpayers to have confidence in the actions and activities of their government, it is imperative that they have access to the public records of these governments. The "Colorado Open Records Act" provides, with very specific exceptions, access to government records to members of the public. As technology now allows the public to access records in digital formats, it is important that Colorado law reflect the new technology to give the public access to records in digital formats that make it easier for them to see and understand government records. Senate Bill 17-040 sets parameters for information to be released in digital formats while ensuring that records custodians provide public records in ways that ensure that only those public records that are subject to disclosure are released. Senate Bill 17-040 makes no changes to what public records are
available for, or protected from disclosure, regardless of the medium in
which the public records are maintained, consistent with existing law.

Current law governing which public records are confidential and not
subject to disclosure and those that must be released remains unchanged.

SECTION 2. In Colorado Revised Statutes, 24-72-202, amend
(6)(a)(I) and (7); and add (1.4), (2.3), (6)(b)(XIV), (6.3), and (6.4) as
follows:

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

(1.4) "INFRASTRUCTURE SECURITY DATA" MEANS ANY RECORD THE
DISCLOSURE OF WHICH COULD ENDANGER PUBLIC SAFETY OR THE
OPERATION OF CRITICAL INFRASTRUCTURE. SUCH RECORDS INCLUDE
DETAILED DRAWINGS, SCHEMATIC DIAGRAMS, SPECIFICATIONS, SECURITY
CODES, VULNERABILITY ASSESSMENTS, PROTECTIVE MEASURES,
EMERGENCY RESPONSE PLANS, SYSTEM OPERATIONAL DATA, AND THE
EXACT PHYSICAL LOCATIONS OF HAZARDOUS MATERIALS. FOR PURPOSES
OF THIS SUBSECTION (1.4), "CRITICAL INFRASTRUCTURE" INCLUDES
BRIDGES, TUNNELS, DAMS, WATER TREATMENT SUPPLY AND DELIVERY
SYSTEMS, WASTEWATER COLLECTION AND TREATMENT SYSTEMS,
RAILWAYS, AIRPORTS, COMMUNICATIONS OR BROADBAND NETWORKS,
ELECTRIC GENERATION TRANSMISSION AND DISTRIBUTION SYSTEMS,
NATURAL GAS TRANSMISSION AND DISTRIBUTION SYSTEMS, AND PUBLIC
BUILDINGS.

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

(6) (a) (I) "Public records" means and includes all writings made,
maintained, or kept by the state, any agency, institution, a nonprofit

corporation incorporated pursuant to section 23-5-121 (2), C.R.S., or

political subdivision of the state, or that are described in section 29-1-902

C.R.S., and held by any local-government-financed entity for use in the

exercise of functions required or authorized by law or administrative rule

or involving the receipt or expenditure of public funds. FOR PURPOSES OF

THIS PART 2, THE TERMS "STATE" AND "AGENCY" INCLUDE THE JUDICIAL

DEPARTMENT OF STATE GOVERNMENT.

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

(XIV) INFRASTRUCTURE SECURITY DATA.

(6.3) "SEARCHABLE" MEANS CAPABLE OF BEING READ BY A

COMPUTER.

(6.4) "STRUCTURED DATA" MEANS 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.

"STRUCTURED DATA" INCLUDES DATA CONTAINED IN RELATIONAL

dATABASES AND SPREADSHEETS.

(7) "Writings" means and includes all books, papers, maps,

photographs, cards, tapes, recordings, or other documentary materials,

regardless of physical form or characteristics. "Writings" includes
digitally stored data, including without limitation electronic mail
messages, but does not include computer software. "WRITINGS" DOES NOT

INCLUDE A COMPUTER PROGRAM OR SOFTWARE, BUT DOES INCLUDE THE

INFORMATION USED AS INPUT FOR THE COMPUTER PROGRAM AND THE

INFORMATION PRODUCED AS A PRODUCT OF THE COMPUTER PROGRAM,

EXCEPT AS OTHERWISE PROVIDED BY LAW.

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

24-72-203. Public records open to inspection. (2) (c) If the custodian has made the requested records publicly available in a structured data format, the custodian may satisfy the request by redirecting the requester, in writing and in detail, to the location of the records.

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

24-72-203.5. Storage of records as structured data - request for copies - definition. (1) (a) Except as otherwise required by subsection (1)(b) of this section:

(1) If public records are stored as structured data, the custodian shall provide an accurate copy of the public records in a structured data format when requested; and

(II) 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 shall provide a copy of the public records in a format that is searchable when requested.

(b) A custodian is not required to produce records in a searchable or structured data format in accordance with subsection (1)(a) of this section if:

(I) After making reasonable inquiries within the entity, the custodian concludes that it is not technologically or practically feasible to produce an accurate copy of the requested information in a searchable or structured format;

(II) The custodian would be required to purchase
SOFTWARE OR HARDWARE, OR TO CREATE ADDITIONAL PROGRAMMING OR
FUNCTIONALITY IN ITS EXISTING SOFTWARE OR HARDWARE, TO
ACCOMMODATE THE REQUEST;

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

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

(2) IF A CUSTODIAN IS NOT ABLE TO COMPLY WITH A REQUEST TO
PRODUCE PUBLIC RECORDS THAT ARE SUBJECT TO DISCLOSURE IN A
REQUESTED FORMAT SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION, THE
CUSTODIAN MUST PRODUCE THE RECORDS IN AN ALTERNATE FORMAT OR
ISSUE A DENIAL UNDER SECTION 24-72-204 AND SHALL 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, ATTORNEY FEES MAY BE AWARDED
ONLY IF THE CUSTODIAN'S ACTION WAS ARBITRARY OR CAPRICIOUS.

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

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

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

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

SECTION 5. In Colorado Revised Statutes, 24-72-204, amend
(5); and add (1)(e), (2)(a)(X), (3.5)(b.5), (4.5), and (9) as follows:

24-72-204. Allowance or denial of inspection - grounds -
procedure - appeal - definitions. (1) The custodian of any public
records shall allow any person the right of inspection of such records or
any portion thereof except on one or more of the following grounds or as
provided in subsection (2) or (3) of this section:

(e) SUCH INSPECTION SEEKS ACCESS TO INFRASTRUCTURE
SECURITY DATA.

(2) (a) The custodian may deny the right of inspection of the
following records, unless otherwise provided by law, on the ground that
disclosure to the applicant would be contrary to the public interest:

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

(3.5) (b.5) (I) ANY PUBLIC EMPLOYEE, OR FORMER PUBLIC
EMPLOYEE, OF ANY BRANCH OR LEVEL OF GOVERNMENT, MAY REQUEST
THAT HIS OR HER HOME ADDRESS, PERSONAL TELEPHONE NUMBER, OR
OTHER SIMILAR PERSONAL IDENTIFYING OR LOCATION INFORMATION BE
WITHHELD FROM THE PRODUCTION OF ANY PUBLIC RECORDS PRODUCED IN
A STRUCTURED DATA OR SEARCHABLE FORMAT PURSUANT TO SECTION
24-72-203.5 BY PRESENTING TO ANY CUSTODIAN OF SUCH PUBLIC RECORDS
A WRITTEN DECLARATION SIGNED BY THE EMPLOYEE ATTESTING THAT
DISCLOSURE OF THE PERSONAL IDENTIFYING OR LOCATION INFORMATION
POSES A CREDIBLE RISK TO THE HEALTH, WELFARE, SAFETY, OR SECURITY
OF THE EMPLOYEE OR TO ANY MEMBER OF THE EMPLOYEE'S FAMILY OR
HOUSEHOLD.

(II) UPON RECEIPT OF A SIGNED DECLARATION DESCRIBED IN
SUBSECTION (3.5)(b.5)(I) OF THIS SECTION OR A DECLARATION
CONTAINING THE SAME INFORMATION DESCRIBED IN SUBSECTION
(3.5)(b.5)(I) OF THIS SECTION THAT HAS BEEN EXECUTED BY A FEDERAL
LAW ENFORCEMENT AGENCY, POST CERTIFIED LAW ENFORCEMENT
OFFICIAL, OR A JUDICIAL OFFICER, THE CUSTODIAN OF ANY PUBLIC
RECORDS PRODUCED IN A STRUCTURED DATA OR SEARCHABLE FORMAT
CONTAINING THE PERSONAL IDENTIFYING OR LOCATION INFORMATION
DESCRIBED IN SUBSECTION (3.5)(b.5)(I) OF THIS SECTION SHALL EITHER
DENY THE INSPECTION OF SUCH PUBLIC RECORDS OR SHALL REDACT FROM ANY SUCH PUBLIC RECORDS PROVIDED TO ANY REQUESTER IN A STRUCTURED DATA OR SEARCHABLE FORMAT THE EMPLOYEE’S PERSONAL IDENTIFYING OR LOCATION INFORMATION.

(III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO CLAIM OF ANY KIND MAY BE ASSERTED AGAINST EITHER ANY RECORDS CUSTODIAN OR ANY AGENCY OF GOVERNMENT THAT IS PREMISED ON THE FAILURE OF THE CUSTODIAN OR THE AGENCY TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (3.5)(b.5)(II) OF THIS SECTION.

(4.5) IF THE CUSTODIAN DENIES ACCESS TO ANY RECORD ON THE GROUNDS THAT THE RECORD CONTAINS INFRASTRUCTURE SECURITY DATA, THE CUSTODIAN SHALL FORTHWITH FURNISH THE APPLICANT WITH A WRITTEN STATEMENT SPECIFYING WHY THE REQUESTED RECORD IS INFRASTRUCTURE SECURITY DATA. AT THE SAME TIME, THE CUSTODIAN SHALL ALSO PROVIDE COPIES OF THE WRITTEN STATEMENT TO THE ATTORNEY GENERAL OF THE STATE AND ALSO TO THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT WITHIN THE DEPARTMENT OF PUBLIC SAFETY CREATED IN SECTION 24-33.5-1603 (1). THE APPLICANT MAY APPLY TO THE STATE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH THE RECORD IS LOCATED FOR A DETERMINATION THAT THE REQUESTED RECORD IS IN FACT A PUBLIC RECORD IN ACCORDANCE WITH THIS PART 2 AND DOES NOT SATISFY THE DEFINITION OF INFRASTRUCTURE SECURITY DATA SPECIFIED IN SECTION 24-72-202 (1.4). IN AN ACTION BROUGHT UNDER THIS SUBSECTION (4.5), THE APPLICANT BEARS THE BURDEN OF PROOF.

(5) Except as provided in subsection (5.5) of this section, any person denied the right to inspect any record covered by this part 2, or
WHO ALLEGES A VIOLATION OF DIGITAL FORMAT PROVISIONS UNDER
SECTION 24-72-203.5 OR A VIOLATION OF RECORD TRANSMISSION
PROVISIONS SPECIFIED IN SECTION 24-72-205, may apply to the district
court of the district wherein the record is found for an order directing the
custodian of such record to show cause why the custodian should not
permit the inspection of such record; except that, at least three business
days prior to filing an application with the district court, the person who
has been denied the right to inspect the record shall file a written notice
with the custodian who has denied the right to inspect the record
informing said custodian that the person intends to file an application
with the district court. Hearing on such application shall be held at the
earliest practical time. Unless the court finds that the denial of the right
of inspection was proper, it shall order the custodian to permit such
inspection and shall award court costs and reasonable attorney fees to the
prevailing applicant in an amount to be determined by the court; except
that no court costs and attorney fees shall be awarded to a person who has
filed a lawsuit against a state public body or local public body and who
applies to the court for an order pursuant to this subsection (5) for access
to records of the state public body or local public body being sued if the
court finds that the records being sought are related to the pending
litigation and are discoverable pursuant to chapter 4 of the Colorado rules
of civil procedure. In the event the court finds that the denial of the right
of inspection was proper, the court shall award court costs and reasonable
attorney fees to the custodian if the court finds that the action was
frivolous, vexatious, or groundless. **IN ANY CASE ALLEGING A VIOLATION
OF DIGITAL FORMAT PROVISIONS, THE ATTORNEY FEE PROVISIONS
SPECIFIED IN SECTION 24-72-203.5 (2) MUST APPLY.**
(9) Altering an existing public 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 section 24-72-205.

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

24-72-205. Copy, printout, or photograph of a public record - imposition of research and retrieval fee. (1) (a) In all cases in which a person has the right to inspect a public record, the person may request a copy, printout, or photograph of the record. The custodian shall furnish a copy, printout, or photograph and may charge a fee determined in accordance with subsection (5) of this section; except that, when the custodian is the secretary of state, fees shall be determined and collected pursuant to section 24-21-104 (3), and when the custodian is the executive director of the department of personnel, fees shall be determined and collected pursuant to section 24-80-102 (10). Where the fee for a certified copy or other copy, printout, or photograph of a record is specifically prescribed by law, the specific fee shall apply.

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

(2) If the custodian does not have facilities for making a copy,
printout, or photograph of a record that a person has the right to inspect,
the person shall be granted access to the record for the purpose of making
a copy, printout, or photograph. The copy, printout, or photograph shall
be made while the record is in the possession, custody, and control of the
custodian thereof and shall be subject to the supervision of the custodian.
When practical, the copy, printout, or photograph shall be made in the
place where the record is kept, but if it is impractical to do so, the
custodian may allow arrangements to be made for the copy, printout, or
photograph to be made at other facilities. If other facilities are necessary,
The cost of providing them shall be paid by the person desiring a copy,
printout, or photograph of the record. The custodian may establish a
reasonable schedule of times for making a copy, printout, or photograph.
and may charge the same fee for the services rendered in supervising the
copying, printing out, or photographing as the custodian may charge for
furnishing a copy, printout, or photograph under subsection (5) of this
section:

(3) If, in response to a specific request, the state or any of its
agencies, institutions, or political subdivisions has performed a
manipulation of data PROGRAMMING, CODING, OR CUSTOM SEARCH QUERIES so as to convert a record into a structured data or searchable format so as to generate a record in a form not used by the state or by said agency, institution, or political subdivision, a reasonable fee may be charged to the person making the request. Such fee shall not exceed the actual cost of manipulating the said data PROGRAMMING, CODING, OR CUSTOM SEARCH QUERIES and generating the said record in accordance with the request. Persons making subsequent requests for the same or similar records may be charged a fee not in excess of the original fee.

(4) If the public record is a result of computer output other than word processing, the fee for a copy, printout, or photograph thereof may be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system. Such fee may be reduced or waived by the custodian if the electronic services and products are to be used for a public purpose, including public agency program support, nonprofit activities, journalism, and academic research. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

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.

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

(b) Notwithstanding paragraph (a) of this subsection (5)(a) of this section, an institution, as defined in sections 24-72-202 (1.5), that is the custodian of scholastic achievement data on an individual person may charge a reasonable fee for a certified transcript of the data.

(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.

(b) When a person has made a request to inspect or make copies or images of original public records, the custodian may charge a fee in accordance with subsection (6)(a) of this section 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.

(b) (c) On July 1, 2019, and by July 1 of every five-year period thereafter, the director of research of the legislative council appointed
pursuant to section 2-3-304 (1) C.R.S., shall adjust the maximum hourly fee specified in paragraph (a) of this subsection (6) of this section in accordance with the percentage change over the period in the United States Department of Labor, Bureau of Labor Statistics, consumer price index for Denver-Boulder-Greeley, all items, all urban consumers, or its successor index. The director of research shall post the adjusted maximum hourly fee on the website of the general assembly.

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

24-72-206. Violation - penalty. Any person who willfully and knowingly violates the provisions of this part 2 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

SECTION 8. Appropriation. (1) For the 2017-18 state fiscal year, $50,810 is appropriated to the judicial department for use by the office of the state public defender. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) $44,492 for personal services, which amount is based on an assumption that the office will require an additional 0.8 FTE;

(b) $5,463 for operating expenses; and

(c) $855 for the purchase of legal services.

(2) For the 2017-18 state fiscal year, $855 is appropriated to the department of law. This appropriation is from reappropriated funds received from the office of the state public defender in the judicial department under subsection (1)(c) of this section. To implement this act.
the department of law may use this appropriation to provide legal services
for the office of the state public defender in the judicial department.

SECTION 9. Act subject to petition - effective date. 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 (August
9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.