

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

INTRODUCED

LLS NO. 17-0155.01 Michael Dohr x4347

HOUSE BILL 17-1029

HOUSE SPONSORSHIP

Lawrence,

SENATE SPONSORSHIP

Gardner,

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

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

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/>.)

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.

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 E-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) as
12 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 SUBSECTION (2)(a)(IX) ALSO APPLIES TO THE
19 JUDICIAL 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 SUBSECTION (3)(a)(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 SUBSECTION (3)(a)(XI), "finalist" means an applicant or candidate for an
10 executive position as the chief executive officer of a state agency,
11 institution, or political subdivision or agency thereof who is a member of
12 the final group of applicants or candidates made public pursuant to
13 section 24-6-402 (3.5), and if only three or fewer applicants or candidates
14 for the chief executive officer position possess the minimum
15 qualifications for the position, said applicants or candidates shall be
16 considered finalists.

17 **SECTION 3. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2018 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.