

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 1, 2017

Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SB17-040 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, after line 1 insert:

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
17 available for, or protected from disclosure, regardless of the medium in
18 which the public records are maintained, consistent with existing law.
19 Current law governing which public records are confidential and not
20 subject to disclosure and those that must be released remains
21 unchanged."

22 Renumber succeeding sections accordingly.

23 Page 3, line 3, strike "(7);" and substitute "(6)(a)(I) and (7);".

1 Page 3, after line 8 insert:

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

11 Page 3, line 9, strike "SEARCHED" and substitute "READ".

12 Page 4, after line 8 insert:

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

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

20 Renumber succeeding sections accordingly.

21 Page 4, line 27, strike "A" and substitute "AN ACCURATE".

22 Page 5, line 7, after "COPYRIGHT" insert "OR LICENSING".

23 Page 5, line 17, after "RECORDS" insert "THAT ARE SUBJECT TO
24 DISCLOSURE".

25 Page 5, line 19, after "FORMAT" insert "OR ISSUE A DENIAL UNDER
26 SECTION 24-72-204".

27 Page 5, strike lines 23 through 26 and substitute "DATA IN THE REQUESTED
28 FORMAT, ATTORNEY FEES MAY BE AWARDED ONLY IF THE".

29 Page 6, line 2, strike "FORMAT." and substitute "FORMAT OR TO RELEASE
30 METADATA."

1 Page 6, strike lines 3 through 9 and substitute:

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

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

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

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

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

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

32 (XI) ANY RECORDS THE INSPECTION OF WHICH IS REASONABLY
33 LIKELY TO COMPROMISE THE SAFETY OR SECURITY OF ANY NATURAL
34 PERSON.

35 (5) Except as provided in subsection".

36 Page 7, line 11, after "EXISTING" insert "PUBLIC".

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